

SSB 5154 - H AMD **490**

By Representative Goodman

ADOPTED 04/15/2015

1 Strike everything after the enacting clause and insert the
2 following:

3
4 "Sec. 1. RCW 4.24.550 and 2011 c 337 s 1 are each amended to read
5 as follows:

6 (1) In addition to the disclosure under subsection (5) of this
7 section, public agencies are authorized to release information to
8 the public regarding sex offenders and kidnapping offenders when the
9 agency determines that disclosure of the information is relevant and
10 necessary to protect the public and counteract the danger created by
11 the particular offender. This authorization applies to information
12 regarding: (a) Any person adjudicated or convicted of a sex offense
13 as defined in RCW 9A.44.128 or a kidnapping offense as defined by
14 RCW 9A.44.128; (b) any person under the jurisdiction of the
15 indeterminate sentence review board as the result of a sex offense
16 or kidnapping offense; (c) any person committed as a sexually
17 violent predator under chapter 71.09 RCW or as a sexual psychopath
18 under chapter 71.06 RCW; (d) any person found not guilty of a sex
19 offense or kidnapping offense by reason of insanity under chapter
20 10.77 RCW; and (e) any person found incompetent to stand trial for a
21 sex offense or kidnapping offense and subsequently committed under
22 chapter 71.05 or 71.34 RCW.

23 (2) Except for the information specifically required under
24 subsection (5) of this section, the extent of the public disclosure
25 of relevant and necessary information shall be rationally related
26 to: (a) The level of risk posed by the offender to the community;
27 (b) the locations where the offender resides, expects to reside, or

1 is regularly found; and (c) the needs of the affected community
2 members for information to enhance their individual and collective
3 safety.

4 (3) Except for the information specifically required under
5 subsection (5) of this section, local law enforcement agencies shall
6 consider the following guidelines in determining the extent of a
7 public disclosure made under this section: (a) For offenders
8 classified as risk level I, the agency shall share information with
9 other appropriate law enforcement agencies and, if the offender is a
10 student, the public or private school regulated under Title 28A RCW
11 or chapter 72.40 RCW which the offender is attending, or planning to
12 attend. The agency may disclose, upon request, relevant, necessary,
13 and accurate information to any victim or witness to the offense
14 ~~((and to)),~~ any individual community member who lives near the
15 residence where the offender resides, expects to reside, or is
16 regularly found, and any individual who requests information
17 regarding a specific offender; (b) for offenders classified as risk
18 level II, the agency may also disclose relevant, necessary, and
19 accurate information to public and private schools, child day care
20 centers, family day care providers, public libraries, businesses and
21 organizations that serve primarily children, women, or vulnerable
22 adults, and neighbors and community groups near the residence where
23 the offender resides, expects to reside, or is regularly found; (c)
24 for offenders classified as risk level III, the agency may also
25 disclose relevant, necessary, and accurate information to the public
26 at large; and (d) because more localized notification is not
27 feasible and homeless and transient offenders may present unique
28 risks to the community, the agency may also disclose relevant,
29 necessary, and accurate information to the public at large for
30 offenders registered as homeless or transient.

31 (4) The county sheriff with whom an offender classified as risk
32 level III is registered shall ~~((cause to be published by legal~~
33 ~~notice, advertising, or news release a sex offender community~~
34 ~~notification that conforms to the guidelines established under RCW~~

1 ~~4.24.5501 in at least one legal newspaper with general circulation~~
2 ~~in the area of the sex offender's registered address or location.~~
3 ~~Unless the information is posted on the web site described in~~
4 ~~subsection (5) of this section, this list shall be maintained by the~~
5 ~~county sheriff on a publicly accessible web site and shall be~~
6 ~~updated at least once per month)) release a sex offender community~~
7 ~~notification that conforms to the guidelines established under RCW~~
8 ~~4.24.5501.~~

9 (5)(a) When funded by federal grants or other sources, the
10 Washington association of sheriffs and police chiefs shall create
11 and maintain a statewide registered kidnapping and sex offender web
12 site, which shall be available to the public. The web site shall
13 post all level III and level II registered sex offenders, level I
14 registered sex offenders only during the time they are out of
15 compliance with registration requirements under RCW 9A.44.130 or if
16 lacking a fixed residence as provided in RCW 9A.44.130, and all
17 registered kidnapping offenders in the state of Washington.

18 (i) For level III offenders, the web site shall contain, but is
19 not limited to, the registered sex offender's name, relevant
20 criminal convictions, address by hundred block, physical
21 description, and photograph. The web site shall provide mapping
22 capabilities that display the sex offender's address by hundred
23 block on a map. The web site shall allow citizens to search for
24 registered sex offenders within the state of Washington by county,
25 city, zip code, last name, and address by hundred block.

26 (ii) For level II offenders, and level I sex offenders during
27 the time they are out of compliance with registration requirements
28 under RCW 9A.44.130, the web site shall contain, but is not limited
29 to, the same information and functionality as described in (a)(i) of
30 this subsection, provided that it is permissible under state and
31 federal law. If it is not permissible, the web site shall be limited
32 to the information and functionality that is permissible under state
33 and federal law.

34

1 (iii) For kidnapping offenders, the web site shall contain, but
2 is not limited to, the same information and functionality as
3 described in (a)(i) of this subsection, provided that it is
4 permissible under state and federal law. If it is not permissible,
5 the web site shall be limited to the information and functionality
6 that is permissible under state and federal law.

7 (b) (~~Until the implementation of (a) of this subsection, the~~
8 ~~Washington association of sheriffs and police chiefs shall create a~~
9 ~~web site available to the public that provides electronic links to~~
10 ~~county operated web sites that offer sex offender registration~~
11 ~~information.~~) Law enforcement agencies must provide information
12 requested by the Washington association of sheriffs and police
13 chiefs to administer the statewide registered kidnapping and sex
14 offender web site.

15 (c) (i) Within five business days of the Washington association
16 of sheriffs and police chiefs receiving any public record request
17 under chapter 42.56 RCW for sex offender and kidnapping offender
18 information, records or website data it holds or maintains pursuant
19 to this section or a unified sex offender registry, the Washington
20 association of sheriffs and police chiefs shall refer the requester
21 in writing to the appropriate law enforcement agency or agencies for
22 submission of such a request. The Washington association of sheriffs
23 and police chiefs shall have no further obligation under chapter
24 42.56 RCW for responding to such a request.

25 (ii) This subparagraph (c) of this section is remedial and
26 applies retroactively.

27 (6) (~~Local~~) (a) Law enforcement agencies (~~that disseminate~~
28 ~~information pursuant to this section~~) responsible for the
29 registration and dissemination of information regarding offenders
30 required to register under RCW 9A.44.130 shall assign a risk level
31 classification to all offenders after consideration of: (~~(a)~~
32 ~~Review~~) (i) Any available risk level classifications (~~(made)~~)
33 provided by the department of corrections, the department of social
34 and health services, and the indeterminate sentence review board;

1 (~~(b) assign risk level classifications to all offenders about whom~~
2 ~~information will be disseminated~~) (ii) the agency's own application
3 of a sex offender risk assessment tool; and (iii) other information
4 and aggravating or mitigating factors known to the agency and deemed
5 rationally related to the risk posed by the offender to the
6 community at large.

7 (b) A sex offender shall be classified as a risk level I if his
8 or her risk assessment and other information or factors deemed
9 relevant by the law enforcement agency indicate he or she is at a
10 low risk to sexually reoffend within the community at large. A sex
11 offender shall be classified as a risk level II if his or her risk
12 assessment and other information or factors deemed relevant by the
13 law enforcement agency indicate he or she is at a moderate risk to
14 sexually reoffend within the community at large. A sex offender
15 shall be classified as a risk level III if his or her risk
16 assessment and other information or factors deemed relevant by the
17 law enforcement agency indicate he or she is at a high risk to
18 sexually reoffend within the community at large.

19 (c) The agency shall make a good faith effort to notify the
20 public and residents within a reasonable period of time after the
21 offender registers with the agency.

22 (~~The juvenile court shall provide local law enforcement~~
23 ~~officials with all relevant information on offenders allowed to~~
24 ~~remain in the community in a timely manner.~~) (d) Agencies may
25 develop a process to allow an offender to petition for review of the
26 offender's assigned risk level classification. The timing,
27 frequency, and process for review are at the sole discretion of the
28 agency.

29 (7) An appointed or elected public official, public employee, or
30 public agency as defined in RCW 4.24.470, or units of local
31 government and its employees, as provided in RCW 36.28A.010, are
32 immune from civil liability for damages for any discretionary risk
33 level classification decisions or release of relevant and necessary
34 information, unless it is shown that the official, employee, or

1 agency acted with gross negligence or in bad faith. The immunity in
2 this section applies to risk level classification decisions and the
3 release of relevant and necessary information regarding any
4 individual for whom disclosure is authorized. The decision of a
5 (~~local~~) law enforcement agency or official to classify an offender
6 to a risk level other than the one assigned by the department of
7 corrections, the department of social and health services, or the
8 indeterminate sentence review board, or the release of any relevant
9 and necessary information based on that different classification
10 shall not, by itself, be considered gross negligence or bad faith.
11 The immunity provided under this section applies to the release of
12 relevant and necessary information to other public officials, public
13 employees, or public agencies, and to the general public.

14 (8) Except as may otherwise be provided by law, nothing in this
15 section shall impose any liability upon a public official, public
16 employee, or public agency for failing to release information
17 authorized under this section.

18 (9) Nothing in this section implies that information regarding
19 persons designated in subsection (1) of this section is confidential
20 except as may otherwise be provided by law.

21 (10) When a (~~local~~) law enforcement agency or official
22 classifies an offender differently than the offender is classified
23 by the end of sentence review committee (~~(or the department of~~
24 ~~social and health services)~~) at the time of the offender's release
25 from confinement, the law enforcement agency or official shall
26 notify the end of sentence review committee (~~(or the department of~~
27 ~~social and health services)~~) and the Washington state patrol and
28 submit its reasons supporting the change in classification.

29 (11) As used in this section, "law enforcement agency" means a
30 general authority Washington law enforcement agency as defined in
31 RCW 10.93.020.

32

33 **Sec. 2.** RCW 9A.44.128 and 2014 c 188 s 2 are each amended to
34 read as follows:

1 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
2 43.43.540, 70.48.470, and 72.09.330, the following definitions
3 apply:

4 (1) "Business day" means any day other than Saturday, Sunday, or
5 a legal local, state, or federal holiday.

6 (2) "Conviction" means any adult conviction or juvenile
7 adjudication for a sex offense or kidnapping offense.

8 (3) "Disqualifying offense" means a conviction for: Any offense
9 that is a felony; a sex offense as defined in this section; a crime
10 against children or persons as defined in RCW 43.43.830(7) and
11 9.94A.411(2)(a); an offense with a domestic violence designation as
12 provided in RCW 10.99.020; permitting the commercial sexual abuse of
13 a minor as defined in RCW 9.68A.103; or any violation of chapter
14 9A.88 RCW.

15 (4) "Employed" or "carries on a vocation" means employment that
16 is full time or part time for a period of time exceeding fourteen
17 days, or for an aggregate period of time exceeding thirty days
18 during any calendar year. A person is employed or carries on a
19 vocation whether the person's employment is financially compensated,
20 volunteered, or for the purpose of government or educational
21 benefit.

22 (5) "Fixed residence" means a building that a person lawfully
23 and habitually uses as living quarters a majority of the week. Uses
24 as living quarters means to conduct activities consistent with the
25 common understanding of residing, such as sleeping; eating; keeping
26 personal belongings; receiving mail; and paying utilities, rent, or
27 mortgage. A nonpermanent structure including, but not limited to, a
28 motor home, travel trailer, camper, or boat may qualify as a
29 residence provided it is lawfully and habitually used as living
30 quarters a majority of the week, primarily kept at one location with
31 a physical address, and the location it is kept at is either owned
32 or rented by the person or used by the person with the permission of
33 the owner or renter. A shelter program may qualify as a residence
34 provided it is a shelter program designed to provide temporary

1 living accommodations for the homeless, provides an offender with a
2 personally assigned living space, and the offender is permitted to
3 store belongings in the living space.

4 (6) "In the community" means residing outside of confinement or
5 incarceration for a disqualifying offense.

6 (7) "Institution of higher education" means any public or
7 private institution dedicated to postsecondary education, including
8 any college, university, community college, trade, or professional
9 school.

10 (8) "Kidnapping offense" means:

11 (a) The crimes of kidnapping in the first degree, kidnapping in
12 the second degree, and unlawful imprisonment, as defined in chapter
13 9A.40 RCW, where the victim is a minor and the offender is not the
14 minor's parent;

15 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
16 attempt, criminal solicitation, or criminal conspiracy to commit an
17 offense that is classified as a kidnapping offense under this
18 subsection; (~~and~~)

19 (c) Any federal or out-of-state conviction for: An offense for
20 which the person would be required to register as a kidnapping
21 offender if residing in the state of conviction; or, if not required
22 to register in the state of conviction, an offense that under the
23 laws of this state would be classified as a kidnapping offense under
24 this subsection; and

25 (d) Any tribal conviction for an offense for which the person
26 would be required to register as a kidnapping offender while
27 residing in the reservation of conviction; or, if not required to
28 register in the reservation of conviction, an offense that under the
29 laws of this state would be classified as a kidnapping offense under
30 this subsection.

31 (9) "Lacks a fixed residence" means the person does not have a
32 living situation that meets the definition of a fixed residence and
33 includes, but is not limited to, a shelter program designed to
34 provide temporary living accommodations for the homeless, an outdoor

1 sleeping location, or locations where the person does not have
2 permission to stay.

3 (10) "Sex offense" means:

4 (a) Any offense defined as a sex offense by RCW 9.94A.030;

5 (b) Any violation under RCW 9A.44.096 (sexual misconduct with a
6 minor in the second degree);

7 (c) Any violation under RCW 9A.40.100(1)(b)(ii) (trafficking);

8 (d) Any violation under RCW 9.68A.090 (communication with a
9 minor for immoral purposes);

10 (e) A violation under RCW 9A.88.070 (promoting prostitution in
11 the first degree) or RCW 9A.88.080 (promoting prostitution in the
12 second degree) if the person has a prior conviction for one of these
13 offenses;

14 (f) Any violation under RCW 9A.40.100(1)(a)(i)(A) (III) or (IV)
15 or (a)(i)(B);

16 (g) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
17 criminal attempt, criminal solicitation, or criminal conspiracy to
18 commit an offense that is classified as a sex offense under RCW
19 9.94A.030 or this subsection;

20 (h) Any out-of-state conviction for an offense for which the
21 person would be required to register as a sex offender while
22 residing in the state of conviction; or, if not required to register
23 in the state of conviction, an offense that under the laws of this
24 state would be classified as a sex offense under this subsection;

25 (i) Any federal conviction classified as a sex offense under 42
26 U.S.C. Sec. 16911 (SORNA);

27 (j) Any military conviction for a sex offense. This includes sex
28 offenses under the uniform code of military justice, as specified by
29 the United States secretary of defense;

30 (k) Any conviction in a foreign country for a sex offense if it
31 was obtained with sufficient safeguards for fundamental fairness and
32 due process for the accused under guidelines or regulations
33 established pursuant to 42 U.S.C. Sec. 16912;

34

1 (1) Any tribal conviction for an offense for which the person
2 would be required to register as a sex offender while residing in
3 the reservation of conviction; or, if not required to register in
4 the reservation of conviction, an offense that under the laws of
5 this state would be classified as a sex offense under this
6 subsection.

7 (11) "School" means a public or private school regulated under
8 Title 28A RCW or chapter 72.40 RCW.

9 (12) "Student" means a person who is enrolled, on a full-time or
10 part-time basis, in any school or institution of higher education.

11

12 **Sec. 3.** RCW 9A.44.130 and 2011 c 337 s 3 are each amended to
13 read as follows:

14 (1)(a) Any adult or juvenile residing whether or not the person
15 has a fixed residence, or who is a student, is employed, or carries
16 on a vocation in this state who has been found to have committed or
17 has been convicted of any sex offense or kidnapping offense, or who
18 has been found not guilty by reason of insanity under chapter 10.77
19 RCW of committing any sex offense or kidnapping offense, shall
20 register with the county sheriff for the county of the person's
21 residence, or if the person is not a resident of Washington, the
22 county of the person's school, or place of employment or vocation,
23 or as otherwise specified in this section. When a person required to
24 register under this section is in custody of the state department of
25 corrections, the state department of social and health services, a
26 local division of youth services, or a local jail or juvenile
27 detention facility as a result of a sex offense or kidnapping
28 offense, the person shall also register at the time of release from
29 custody with an official designated by the agency that has
30 jurisdiction over the person.

31 (b) Any adult or juvenile who is required to register under (a)
32 of this subsection must give notice to the county sheriff of the
33 county with whom the person is registered within three business
34 days:

1 (i) Prior to arriving at a school or institution of higher
2 education to attend classes;

3 (ii) Prior to starting work at an institution of higher
4 education; or

5 (iii) After any termination of enrollment or employment at a
6 school or institution of higher education.

7 (2)(a) A person required to register under this section must
8 provide the following information when registering: (i) Name and any
9 aliases used; (ii) complete and accurate residential address or, if
10 the person lacks a fixed residence, where he or she plans to stay;
11 (iii) date and place of birth; (iv) place of employment; (v) crime
12 for which convicted; (vi) date and place of conviction; (vii) social
13 security number; (viii) photograph; and (ix) fingerprints.

14 (b) A person may be required to update any of the information
15 required in this subsection in conjunction with any address
16 verification conducted by the county sheriff or as part of any
17 notice required by this section.

18 (c) A photograph or copy of an individual's fingerprints may be
19 taken at any time to update an individual's file.

20 (3) Any person required to register under this section who
21 intends to travel outside the United States must provide, by
22 certified mail, with return receipt requested, or in person, signed
23 written notice of the plan to travel outside the country to the
24 county sheriff of the county with whom the person is registered at
25 least twenty-one days prior to travel. The notice shall include the
26 following information: (a) Name; (b) passport number and country;
27 (c) destination; (d) itinerary details including departure and
28 return dates; (e) means of travel; and (f) purpose of travel. If the
29 offender subsequently cancels or postpones travel outside the United
30 States, the offender must notify the county sheriff not later than
31 three days after cancellation or postponement of the intended travel
32 outside the United States or on the departure date provided in the
33 notification, whichever is earlier. The county sheriff shall notify
34 the United States marshals service as soon as practicable after

1 receipt of the notification. In cases of unexpected travel due to
2 family or work emergencies, or for offenders who travel routinely
3 across international borders for work related purposes, the notice
4 must be submitted in person at least twenty-four hours prior to
5 travel to the sheriff of the county where such offenders are
6 registered with a written explanation of the circumstances that make
7 compliance with this subsection (3) impracticable.

8 (4)(a) Offenders shall register with the county sheriff within
9 the following deadlines:

10 (i) OFFENDERS IN CUSTODY. (~~(A)~~) Sex offenders (~~who committed~~
11 ~~a sex offense on, before, or after February 28, 1990, and who, on or~~
12 ~~after July 28, 1991, are in custody, as a result of that offense, of~~
13 ~~the state department of corrections, the state department of social~~
14 ~~and health services, a local division of youth services, or a local~~
15 ~~jail or juvenile detention facility, and (B)) or kidnapping
16 offenders who (~~on or after July 27, 1997,~~) are in custody of the
17 state department of corrections, the state department of social and
18 health services, a local division of youth services, or a local jail
19 or juvenile detention facility, must register at the time of release
20 from custody with an official designated by the agency that has
21 jurisdiction over the offender. The agency shall within three days
22 forward the registration information to the county sheriff for the
23 county of the offender's anticipated residence. The offender must
24 also register within three business days from the time of release
25 with the county sheriff for the county of the person's residence, or
26 if the person is not a resident of Washington, the county of the
27 person's school, or place of employment or vocation. The agency that
28 has jurisdiction over the offender shall provide notice to the
29 offender of the duty to register.~~

30 When the agency with jurisdiction intends to release an offender
31 with a duty to register under this section, and the agency has
32 knowledge that the offender is eligible for developmental disability
33 services from the department of social and health services, the
34 agency shall notify the division of developmental disabilities of

1 the release. Notice shall occur not more than thirty days before the
2 offender is to be released. The agency and the division shall assist
3 the offender in meeting the initial registration requirement under
4 this section. Failure to provide such assistance shall not
5 constitute a defense for any violation of this section.

6 When a person required to register under this section is in the
7 custody of the state department of corrections or a local
8 corrections or probations agency and has been approved for partial
9 confinement as defined in RCW 9.94A.030, the person must register at
10 the time of transfer to partial confinement with the official
11 designated by the agency that has jurisdiction over the offender.
12 The agency shall within three days forward the registration
13 information to the county sheriff for the county in which the
14 offender is in partial confinement. The offender must also register
15 within three business days from the time of the termination of
16 partial confinement or release from confinement with the county
17 sheriff for the county of the person's residence. The agency that
18 has jurisdiction over the offender shall provide notice to the
19 offender of the duty to register.

20 ~~(ii) ((OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL~~
21 ~~JURISDICTION. Sex offenders who, on July 28, 1991, are not in~~
22 ~~custody but are under the jurisdiction of the indeterminate sentence~~
23 ~~review board or under the department of corrections' active~~
24 ~~supervision, as defined by the department of corrections, the state~~
25 ~~department of social and health services, or a local division of~~
26 ~~youth services, for sex offenses committed before, on, or after~~
27 ~~February 28, 1990, must register within ten days of July 28, 1991.~~
28 ~~Kidnapping offenders who, on July 27, 1997, are not in custody but~~
29 ~~are under the jurisdiction of the indeterminate sentence review~~
30 ~~board or under the department of corrections' active supervision, as~~
31 ~~defined by the department of corrections, the state department of~~
32 ~~social and health services, or a local division of youth services,~~
33 ~~for kidnapping offenses committed before, on, or after July 27,~~
34 ~~1997, must register within ten days of July 27, 1997. A change in~~

1 ~~supervision status of a sex offender who was required to register~~
2 ~~under this subsection (3)(a)(ii) as of July 28, 1991, or a~~
3 ~~kidnapping offender required to register as of July 27, 1997, shall~~
4 ~~not relieve the offender of the duty to register or to reregister~~
5 ~~following a change in residence.~~

6 ~~(iii))~~ OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders
7 ~~((who, on or after July 23, 1995, and))~~ or kidnapping offenders
8 ~~who((, on or after July 27, 1997, as a result of that offense))~~ are
9 in the custody of the United States bureau of prisons or other
10 federal or military correctional agency ~~((for sex offenses committed~~
11 ~~before, on, or after February 28, 1990, or kidnapping offenses~~
12 ~~committed on, before, or after July 27, 1997,))~~ must register within
13 three business days from the time of release with the county sheriff
14 for the county of the person's residence, or if the person is not a
15 resident of Washington, the county of the person's school, or place
16 of employment or vocation. ~~((Sex offenders who, on July 23, 1995,~~
17 ~~are not in custody but are under the jurisdiction of the United~~
18 ~~States bureau of prisons, United States courts, United States parole~~
19 ~~commission, or military parole board for sex offenses committed~~
20 ~~before, on, or after February 28, 1990, must register within ten~~
21 ~~days of July 23, 1995. Kidnapping offenders who, on July 27, 1997,~~
22 ~~are not in custody but are under the jurisdiction of the United~~
23 ~~States bureau of prisons, United States courts, United States parole~~
24 ~~commission, or military parole board for kidnapping offenses~~
25 ~~committed before, on, or after July 27, 1997, must register within~~
26 ~~ten days of July 27, 1997. A change in supervision status of a sex~~
27 ~~offender who was required to register under this subsection~~
28 ~~(3)(a)(iii) as of July 23, 1995, or a kidnapping offender required~~
29 ~~to register as of July 27, 1997 shall not relieve the offender of~~
30 ~~the duty to register or to reregister following a change in~~
31 ~~residence, or if the person is not a resident of Washington, the~~
32 ~~county of the person's school, or place of employment or vocation.~~

33 ~~(iv))~~ (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex
34 offenders who are convicted of a sex offense ~~((on or after July 28,~~

1 ~~1991, for a sex offense that was committed on or after February 28,~~
2 ~~1990,))~~ and kidnapping offenders who are convicted (~~(on or after~~
3 ~~July 27, 1997,))~~ for a kidnapping offense (~~(that was committed on or~~
4 ~~after July 27, 1997,))~~ but who are not sentenced to serve a term of
5 confinement immediately upon sentencing(~~(7)~~) shall report to the
6 county sheriff to register within three business days of being
7 sentenced.

8 ~~((+v))~~ (iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY
9 RESIDENTS, OR RETURNING WASHINGTON RESIDENTS. Sex offenders and
10 kidnapping offenders who move to Washington state from another state
11 or a foreign country (~~(that are not under the jurisdiction of the~~
12 ~~state department of corrections, the indeterminate sentence review~~
13 ~~board, or the state department of social and health services at the~~
14 ~~time of moving to Washington,))~~ must register within three business
15 days of establishing residence or reestablishing residence if the
16 person is a former Washington resident. (~~(The duty to register under~~
17 ~~this subsection applies to sex offenders convicted under the laws of~~
18 ~~another state or a foreign country, federal or military statutes for~~
19 ~~offenses committed before, on, or after February 28, 1990, or~~
20 ~~Washington state for offenses committed before, on, or after~~
21 ~~February 28, 1990, and to kidnapping offenders convicted under the~~
22 ~~laws of another state or a foreign country, federal or military~~
23 ~~statutes, or Washington state for offenses committed before, on, or~~
24 ~~after July 27, 1997. Sex offenders and kidnapping offenders from~~
25 ~~other states or a foreign country who, when they move to Washington,~~
26 ~~are under the jurisdiction of the department of corrections, the~~
27 ~~indeterminate sentence review board, or the department of social and~~
28 ~~health services must register within three business days of moving~~
29 ~~to Washington. The agency that has jurisdiction over the offender~~
30 ~~shall notify the offender of the registration requirements before~~
31 ~~the offender moves to Washington.~~

32 ~~(+vi))~~ If the offender is under the jurisdiction of an agency of
33 this state when the offender moves to Washington, the agency shall
34 provide notice to the offender of the duty to register.

1 Sex offenders and kidnapping offenders who are visiting
2 Washington state and intend to reside or be present in the state for
3 ten days or more shall register his or her temporary address or
4 where he or she plans to stay with the county sheriff of each county
5 where the offender will be staying within three business days of
6 arrival. Registration for temporary residents shall include the
7 information required by subsection (2)(a) of this section, except
8 the photograph and fingerprints.

9 (v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
10 or juvenile who has been found not guilty by reason of insanity
11 under chapter 10.77 RCW of ~~((A))~~ committing a sex offense ~~((on,~~
12 ~~before, or after February 28, 1990, and who, on or after July 23,~~
13 ~~1995, is in custody, as a result of that finding, of the state~~
14 ~~department of social and health services,))~~ or ~~((B) committing))~~ a
15 kidnapping offense ~~((on, before, or after July 27, 1997,))~~ and who
16 ~~((on or after July 27, 1997,))~~ is in custody, as a result of that
17 finding, of the state department of social and health services, must
18 register within three business days from the time of release with
19 the county sheriff for the county of the person's residence. The
20 state department of social and health services shall provide notice
21 to the adult or juvenile in its custody of the duty to register.
22 ~~((Any adult or juvenile who has been found not guilty by reason of~~
23 ~~insanity of committing a sex offense on, before, or after February~~
24 ~~28, 1990, but who was released before July 23, 1995, or any adult or~~
25 ~~juvenile who has been found not guilty by reason of insanity of~~
26 ~~committing a kidnapping offense but who was released before July 27,~~
27 ~~1997, shall be required to register within three business days of~~
28 ~~receiving notice of this registration requirement.~~

29 ~~(vii))~~ (vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person
30 who lacks a fixed residence and leaves the county in which he or she
31 is registered and enters and remains within a new county for twenty-
32 four hours is required to register with the county sheriff not more
33 than three business days after entering the county and provide the
34 information required in subsection (2)(a) of this section.

1 (~~(viii)~~) (vii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO
2 ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who
3 are under the supervision of the department shall register in the
4 county of their supervision.

5 (~~(ix)~~) (viii) OFFENDERS WHO MOVE TO, WORK, CARRY ON A
6 VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to
7 register in Washington, who move to another state, or who work,
8 carry on a vocation, or attend school in another state shall
9 register a new address, fingerprints, and photograph with the new
10 state within three business days after establishing residence, or
11 after beginning to work, carry on a vocation, or attend school in
12 the new state. The person must also send written notice within three
13 business days of moving to the new state or to a foreign country to
14 the county sheriff with whom the person last registered in
15 Washington state. The county sheriff shall promptly forward this
16 information to the Washington state patrol.

17 (b) The county sheriff shall not be required to determine
18 whether the person is living within the county.

19 (c) An arrest on charges of failure to register, service of an
20 information, or a complaint for a violation of RCW 9A.44.132, or
21 arraignment on charges for a violation of RCW 9A.44.132, constitutes
22 actual notice of the duty to register. Any person charged with the
23 crime of failure to register under RCW 9A.44.132 who asserts as a
24 defense the lack of notice of the duty to register shall register
25 within three business days following actual notice of the duty
26 through arrest, service, or arraignment. Failure to register as
27 required under this subsection (~~(3)~~) (4)(c) constitutes grounds
28 for filing another charge of failing to register. Registering
29 following arrest, service, or arraignment on charges shall not
30 relieve the offender from criminal liability for failure to register
31 prior to the filing of the original charge.

32 (~~(d) The deadlines for the duty to register under this section~~
33 ~~do not relieve any sex offender of the duty to register under this~~
34 ~~section as it existed prior to July 28, 1991.~~

1 ~~(4))~~ (5)(a) If any person required to register pursuant to this
2 section changes his or her residence address within the same county,
3 the person must provide, by certified mail, with return receipt
4 requested or in person, signed written notice of the change of
5 address to the county sheriff within three business days of moving.

6 (b) If any person required to register pursuant to this section
7 moves to a new county, within three business days of moving the
8 person must register with ~~((that))~~ the county sheriff of the county
9 into which the person has moved ~~((within three business days of~~
10 ~~moving. Within three business days, the person must also))~~ and
11 provide, by certified mail, with return receipt requested or in
12 person, signed written notice of the change of address ~~((in the new~~
13 ~~county))~~ to the county sheriff with whom the person last registered.
14 The county sheriff with whom the person last registered ~~((shall~~
15 ~~promptly forward the information concerning the change of address to~~
16 ~~the county sheriff for the county of the person's new residence.~~
17 ~~Upon receipt of notice of change of address to a new state, the~~
18 ~~county sheriff shall promptly forward the information regarding the~~
19 ~~change of address to the agency designated by the new state as the~~
20 ~~state's offender registration agency))~~ is responsible for address
21 verification pursuant to RCW 9A.44.135 until the person completes
22 registration of his or her new residence address.

23 ~~((5))~~ (6)(a) Any person required to register under this
24 section who lacks a fixed residence shall provide signed written
25 notice to the sheriff of the county where he or she last registered
26 within three business days after ceasing to have a fixed residence.
27 The notice shall include the information required by subsection
28 (2)(a) of this section, except the photograph and fingerprints. The
29 county sheriff may, for reasonable cause, require the offender to
30 provide a photograph and fingerprints. The sheriff shall forward
31 this information to the sheriff of the county in which the person
32 intends to reside, if the person intends to reside in another
33 county.

34

1 (b) A person who lacks a fixed residence must report weekly, in
2 person, to the sheriff of the county where he or she is registered.
3 The weekly report shall be on a day specified by the county
4 sheriff's office, and shall occur during normal business hours. The
5 person must keep an accurate accounting of where he or she stays
6 during the week and provide it to the county sheriff upon request.
7 The lack of a fixed residence is a factor that may be considered in
8 determining an offender's risk level and shall make the offender
9 subject to disclosure of information to the public at large pursuant
10 to RCW 4.24.550.

11 (c) If any person required to register pursuant to this section
12 does not have a fixed residence, it is an affirmative defense to the
13 charge of failure to register, that he or she provided written
14 notice to the sheriff of the county where he or she last registered
15 within three business days of ceasing to have a fixed residence and
16 has subsequently complied with the requirements of subsections
17 ~~((3))~~ (4)(a)~~((vii))~~ (vi) or ~~((viii))~~ (vii) and ~~((5))~~ (6) of
18 this section. To prevail, the person must prove the defense by a
19 preponderance of the evidence.

20 ~~((6))~~ (7) A sex offender subject to registration requirements
21 under this section who applies to change his or her name under RCW
22 4.24.130 or any other law shall submit a copy of the application to
23 the county sheriff of the county of the person's residence and to
24 the state patrol not fewer than five days before the entry of an
25 order granting the name change. No sex offender under the
26 requirement to register under this section at the time of
27 application shall be granted an order changing his or her name if
28 the court finds that doing so will interfere with legitimate law
29 enforcement interests, except that no order shall be denied when the
30 name change is requested for religious or legitimate cultural
31 reasons or in recognition of marriage or dissolution of marriage. A
32 sex offender under the requirement to register under this section
33 who receives an order changing his or her name shall submit a copy
34 of the order to the county sheriff of the county of the person's

1 residence and to the state patrol within three business days of the
2 entry of the order.

3 ~~((7))~~ (8) Except as may otherwise be provided by law, nothing
4 in this section shall impose any liability upon a peace officer,
5 including a county sheriff, or law enforcement agency, for failing
6 to release information authorized under this section.

7

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.44
9 RCW to read as follows:

10 (1) RCW 9A.44.128 through 9A.44.145 apply to offenders who
11 committed their crimes and were adjudicated within the following
12 time frames:

13 (a) Sex offenders convicted of a sex offense on or after July
14 28, 1991, for a sex offense committed on or after February 28, 1990;

15 (b) Kidnapping offenders convicted of a kidnapping offense on or
16 after July 27, 1997, for a kidnapping offense committed on or after
17 July 27, 1997;

18 (c) Sex offenders who, on or after July 28, 1991, were in the
19 custody or under the jurisdiction of the department of corrections,
20 the department of social and health services, a local division of
21 youth services, or a local jail or juvenile detention facility as
22 the result of a sex offense, regardless of when the sex offense was
23 committed;

24 (d) Kidnapping offenders who, on or after July 27, 1997, were in
25 the custody or under the jurisdiction of the department of
26 corrections, the department of social and health services, a local
27 division of youth services, or a local jail or juvenile detention
28 facility as the result of a kidnapping offense, regardless of when
29 the kidnapping offense was committed;

30 (e) Any person who is or has been determined to be a sexually
31 violent predator pursuant to chapter 71.09 RCW;

32 (f) Sex offenders who, on or after July 23, 1995, were in the
33 custody or under the jurisdiction of the United States bureau of
34 prisons, United States courts, United States parole commission, or

1 military parole board as the result of a sex offense, regardless of
2 when the sex offense was committed;

3 (g) Kidnapping offenders who, on or after July 27, 1997, were in
4 the custody or under the jurisdiction of the United States bureau of
5 prisons, United States courts, United States parole commission, or
6 military parole board as the result of a kidnapping offense,
7 regardless of when the kidnapping offense was committed;

8 (h) Sex offenders who move to Washington state from another
9 state, tribe, or a foreign country and who were convicted of a sex
10 offense under the laws of this state, another state, a foreign
11 country, tribe, or other federal or military tribunal, regardless of
12 when the sex offense was committed or the conviction occurred;

13 (i) Kidnapping offenders who move to Washington state from
14 another state, tribe, or a foreign country and who were convicted of
15 a kidnapping offense under the laws of this state, another state, a
16 foreign country, tribe, or other federal or military tribunal,
17 regardless of when the kidnapping offense was committed or the
18 conviction occurred;

19 (j) Any adult or juvenile found not guilty by reason of insanity
20 under chapter 10.77 RCW of committing a sex offense or of committing
21 a kidnapping offense, regardless of when the offense was committed.

22 (2) The provisions of this section do not relieve any sex
23 offender of the duty to register under the law as it existed prior
24 to July 28, 1991.

25

26 **Sec. 5.** RCW 9A.44.132 and 2011 c 337 s 5 are each amended to
27 read as follows:

28 (1) A person commits the crime of failure to register as a sex
29 offender if the person has a duty to register under RCW 9A.44.130
30 for a felony sex offense and knowingly fails to comply with any of
31 the requirements of RCW 9A.44.130.

32 (a) The failure to register as a sex offender pursuant to this
33 subsection is a class C felony if:

34

1 (i) It is the person's first conviction for a felony failure to
2 register; or

3 (ii) The person has previously been convicted of a felony
4 failure to register as a sex offender in this state or pursuant to
5 the laws of another state, or pursuant to federal law.

6 (b) If a person has been convicted of a felony failure to
7 register as a sex offender in this state or pursuant to the laws of
8 another state, or pursuant to federal law, on two or more prior
9 occasions, the failure to register under this subsection is a class
10 B felony.

11 (2) A person is guilty of failure to register as a sex offender
12 if the person has a duty to register under RCW 9A.44.130 for a sex
13 offense other than a felony and knowingly fails to comply with any
14 of the requirements of RCW 9A.44.130. The failure to register as a
15 sex offender under this subsection is a gross misdemeanor.

16 (3) A person commits the crime of failure to register as a
17 kidnapping offender if the person has a duty to register under RCW
18 9A.44.130 for a kidnapping offense and knowingly fails to comply
19 with any of the requirements of RCW 9A.44.130.

20 (a) If the person has a duty to register for a felony kidnapping
21 offense, the failure to register as a kidnapping offender is a class
22 C felony.

23 (b) If the person has a duty to register for a kidnapping
24 offense other than a felony, the failure to register as a kidnapping
25 offender is a gross misdemeanor.

26 (4) A person commits the crime of refusal to provide DNA if the
27 person has a duty to register under RCW 9A.44.130 and the person
28 willfully refuses to comply with a legal request for a DNA sample as
29 required under RCW 43.43.754(1)(b). The refusal to provide DNA is a
30 gross misdemeanor.

31 (5) Unless relieved of the duty to register pursuant to RCW
32 9A.44.141 and 9A.44.142, a violation of this section is an ongoing
33 offense for purposes of the statute of limitations under RCW
34 9A.04.080.

1 **Sec. 6.** RCW 9A.44.140 and 2010 c 267 s 4 are each amended to
2 read as follows:

3 The duty to register under RCW 9A.44.130 shall continue for the
4 duration provided in this section.

5 (1) For a person convicted in this state of a class A felony
6 (~~or an offense listed in RCW 9A.44.142(5)~~), or a person convicted
7 (~~in this state~~) of any sex offense or kidnapping offense who has
8 one or more prior convictions for a sex offense or kidnapping
9 offense, the duty to register shall continue indefinitely.

10 (2) For a person convicted in this state of a class B felony who
11 does not have one or more prior convictions for a sex offense or
12 kidnapping offense (~~and whose current offense is not listed in RCW~~
13 ~~9A.44.142(5)~~), the duty to register shall end fifteen years after
14 the last date of release from confinement, if any, (including full-
15 time residential treatment) pursuant to the conviction, or entry of
16 the judgment and sentence, if the person has spent fifteen
17 consecutive years in the community without being convicted of a
18 disqualifying offense during that time period.

19 (3) For a person convicted in this state of a class C felony, a
20 violation of RCW 9.68A.090 or 9A.44.096, or an attempt,
21 solicitation, or conspiracy to commit a class C felony, and the
22 person does not have one or more prior convictions for a sex offense
23 or kidnapping offense (~~and the person's current offense is not~~
24 ~~listed in RCW 9A.44.142(5)~~), the duty to register shall end ten
25 years after the last date of release from confinement, if any,
26 (including full-time residential treatment) pursuant to the
27 conviction, or entry of the judgment and sentence, if the person has
28 spent ten consecutive years in the community without being convicted
29 of a disqualifying offense during that time period.

30 (4) Except as provided in RCW 9A.44.142, for a person required
31 to register for a federal, tribal, or out-of-state conviction, the
32 duty to register shall continue indefinitely.

33

34

1 (5) For a person who is or has been determined to be a sexually
2 violent predator pursuant to chapter 71.09 RCW, the duty to register
3 shall continue for the person's lifetime.

4 (6) Nothing in this section prevents a person from being
5 relieved of the duty to register under RCW 9A.44.142 and 9A.44.143.

6 ~~((+6+))~~ (7) Nothing in RCW 9.94A.637 relating to discharge of an
7 offender shall be construed as operating to relieve the offender of
8 his or her duty to register pursuant to RCW 9A.44.130.

9 ~~((+7+))~~ (8) For purposes of determining whether a person has
10 been convicted of more than one sex offense, failure to register as
11 a sex offender or kidnapping offender is not a sex or kidnapping
12 offense.

13 ~~((+8+))~~ (9) The provisions of this section and RCW 9A.44.141
14 through 9A.44.143 apply equally to a person who has been found not
15 guilty by reason of insanity under chapter 10.77 RCW of a sex
16 offense or kidnapping offense.

17

18 **Sec. 7.** RCW 9A.44.141 and 2011 c 337 s 6 are each amended to
19 read as follows:

20 (1) Upon the request of a person who is listed in the Washington
21 state patrol central registry of sex offenders and kidnapping
22 offenders, the county sheriff shall investigate whether a person's
23 duty to register has ended by operation of law pursuant to RCW
24 9A.44.140.

25 (a) Using available records, the county sheriff shall verify
26 that the offender has spent the requisite time in the community and
27 has not been convicted of a disqualifying offense.

28 (b) If the county sheriff determines the person's duty to
29 register has ended by operation of law, the county sheriff shall
30 request the Washington state patrol remove the person's name from
31 the central registry.

32 (2) Nothing in this subsection prevents a county sheriff from
33 investigating, upon his or her own initiative, whether a person's
34

1 duty to register has ended by operation of law pursuant to RCW
2 9A.44.140.

3 (3)(a) A person who is listed in the central registry as the
4 result of a federal, tribal, or out-of-state conviction may request
5 the county sheriff to investigate whether the person should be
6 removed from the registry if:

7 (i) A court or other administrative authority in the person's
8 state of conviction has made an individualized determination that
9 the person (~~(should)~~) is not (~~(be)~~) required to register; and

10 (ii) The person provides proof of relief from registration to
11 the county sheriff.

12 (b) If the county sheriff determines the person has been
13 relieved of the duty to register in his or her state of conviction,
14 the county sheriff shall request the Washington state patrol remove
15 the person's name from the central registry.

16 (4) An appointed or elected public official, public employee, or
17 public agency as defined in RCW 4.24.470, or units of local
18 government and its employees, as provided in RCW 36.28A.010, are
19 immune from civil liability for damages for removing or requesting
20 the removal of a person from the central registry of sex offenders
21 and kidnapping offenders or the failure to remove or request removal
22 of a person within the time frames provided in RCW 9A.44.140.

23

24 **Sec. 8.** RCW 9A.44.142 and 2011 c 337 s 7 are each amended to
25 read as follows:

26 (1) A person who is required to register under RCW 9A.44.130 may
27 petition the superior court to be relieved of the duty to register:

28 (a) If the person has a duty to register for a sex offense or
29 kidnapping offense committed when the offender was a juvenile,
30 regardless of whether the conviction was in this state, as provided
31 in RCW 9A.44.143;

32 (b) If the person is required to register for a conviction in
33 this state and is not prohibited from petitioning for relief from
34 registration under subsection (2) of this section, when the person

1 has spent ten consecutive years in the community without being
2 convicted of a disqualifying offense during that time period; or

3 (c) If the person is required to register for a federal, tribal,
4 or out-of-state conviction, when the person has spent fifteen
5 consecutive years in the community without being convicted of a
6 disqualifying offense during that time period.

7 (2)(a) A person may not petition for relief from registration if
8 the person has been:

9 (i) Determined to be a sexually violent predator (~~as defined in~~
10 ~~RCW 71.09.020~~) pursuant to chapter 71.09 RCW; or

11 (ii) Convicted as an adult of a sex offense or kidnapping
12 offense that is a class A felony and that was committed with
13 forcible compulsion on or after June 8, 2000(~~;~~ ~~or~~

14 ~~(iii) Until July 1, 2012, convicted of one aggravated offense or~~
15 ~~more than one sexually violent offense, as defined in subsection (5)~~
16 ~~of this section, and the offense or offenses were committed on or~~
17 ~~after March 12, 2002. After July 1, 2012, this subsection~~
18 ~~(2)(a)(iii) shall have no further force and effect)).~~

19 (b) Any person who may not be relieved of the duty to register
20 may petition the court to be exempted from any community
21 notification requirements that the person may be subject to fifteen
22 years after the later of the entry of the judgment and sentence or
23 the last date of release from confinement, including full-time
24 residential treatment, pursuant to the conviction, if the person has
25 spent the time in the community without being convicted of a
26 disqualifying offense.

27 (3) A petition for relief from registration or exemption from
28 notification under this section shall be made to the court in which
29 the petitioner was convicted of the offense that subjects him or her
30 to the duty to register or, in the case of convictions in other
31 states, a foreign country, or a federal, tribal, or military court,
32 to the court in the county where the person is registered at the
33 time the petition is sought. The prosecuting attorney of the county
34 shall be named and served as the respondent in any such petition.

1 (4)(a) The court may relieve a petitioner of the duty to
2 register only if the petitioner shows by clear and convincing
3 evidence that the petitioner is sufficiently rehabilitated to
4 warrant removal from the central registry of sex offenders and
5 kidnapping offenders.

6 (b) In determining whether the petitioner is sufficiently
7 rehabilitated to warrant removal from the registry, the following
8 factors are provided as guidance to assist the court in making its
9 determination:

10 (i) The nature of the registrable offense committed including
11 the number of victims and the length of the offense history;

12 (ii) Any subsequent criminal history;

13 (iii) The petitioner's compliance with supervision requirements;

14 (iv) The length of time since the charged incident(s) occurred;

15 (v) Any input from community corrections officers, law
16 enforcement, or treatment providers;

17 (vi) Participation in sex offender treatment;

18 (vii) Participation in other treatment and rehabilitative
19 programs;

20 (viii) The offender's stability in employment and housing;

21 (ix) The offender's community and personal support system;

22 (x) Any risk assessments or evaluations prepared by a qualified
23 professional;

24 (xi) Any updated polygraph examination;

25 (xii) Any input of the victim;

26 (xiii) Any other factors the court may consider relevant.

27 ~~(5)((a) A person who has been convicted of an aggravated
28 offense, or has been convicted of one or more prior sexually violent
29 offenses or criminal offenses against a victim who is a minor, as
30 defined in (b) of this subsection:~~

31 ~~(i) Until July 1, 2012, may not be relieved of the duty to
32 register;~~

33 ~~(ii) After July 1, 2012, may petition the court to be relieved
34 of the duty to register as provided in this section;~~

1 ~~(iii) This provision shall apply to convictions for crimes~~
2 ~~committed on or after July 22, 2001.~~

3 ~~(b) Unless the context clearly requires otherwise, the following~~
4 ~~definitions apply only to the federal lifetime registration~~
5 ~~requirements under this subsection:~~

6 ~~(i) "Aggravated offense" means an adult conviction that meets~~
7 ~~the definition of 18 U.S.C. Sec. 2241, which is limited to the~~
8 ~~following:~~

9 ~~(A) Any sex offense involving sexual intercourse or sexual~~
10 ~~contact where the victim is under twelve years of age;~~

11 ~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073~~
12 ~~(rape of a child in the first degree), or RCW 9A.44.083 (child~~
13 ~~molestation in the first degree);~~

14 ~~(C) Any of the following offenses when committed by forcible~~
15 ~~compulsion or by the offender administering, by threat or force or~~
16 ~~without the knowledge or permission of that person, a drug,~~
17 ~~intoxicant, or other similar substance that substantially impairs~~
18 ~~the ability of that person to appraise or control conduct: RCW~~
19 ~~9A.44.050 (rape in the second degree), RCW 9A.44.100 (indecent~~
20 ~~liberties), RCW 9A.44.160 (custodial sexual misconduct in the first~~
21 ~~degree), RCW 9A.64.020 (incest), or RCW 9.68A.040 (sexual~~
22 ~~exploitation of a minor);~~

23 ~~(D) Any of the following offenses when committed by forcible~~
24 ~~compulsion or by the offender administering, by threat or force or~~
25 ~~without the knowledge or permission of that person, a drug,~~
26 ~~intoxicant, or other similar substance that substantially impairs~~
27 ~~the ability of that person to appraise or control conduct, if the~~
28 ~~victim is twelve years of age or over but under sixteen years of age~~
29 ~~and the offender is eighteen years of age or over and is more than~~
30 ~~forty eight months older than the victim: RCW 9A.44.076 (rape of a~~
31 ~~child in the second degree), RCW 9A.44.079 (rape of a child in the~~
32 ~~third degree), RCW 9A.44.086 (child molestation in the second~~
33 ~~degree), or RCW 9A.44.089 (child molestation in the third degree);~~

34

1 ~~(E) A felony with a finding of sexual motivation under RCW~~
2 ~~9.94A.835 where the victim is under twelve years of age or that is~~
3 ~~committed by forcible compulsion or by the offender administering,~~
4 ~~by threat or force or without the knowledge or permission of that~~
5 ~~person, a drug, intoxicant, or other similar substance that~~
6 ~~substantially impairs the ability of that person to appraise or~~
7 ~~control conduct;~~

8 ~~(F) An offense that is, under chapter 9A.28 RCW, an attempt or~~
9 ~~solicitation to commit such an offense; or~~

10 ~~(G) An offense defined by federal law or the laws of another~~
11 ~~state that is equivalent to the offenses listed in (b)(i)(A) through~~
12 ~~(F) of this subsection.~~

13 ~~(ii) "Sexually violent offense" means an adult conviction that~~
14 ~~meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is~~
15 ~~limited to the following:~~

16 ~~(A) An aggravated offense;~~

17 ~~(B) An offense that is not an aggravated offense but meets the~~
18 ~~definition of 18 U.S.C. Sec. 2242, which is limited to RCW~~
19 ~~9A.44.050(1) (b) through (f) (rape in the second degree) and RCW~~
20 ~~9A.44.100(1) (b) through (f) (indecent liberties);~~

21 ~~(C) A felony with a finding of sexual motivation under RCW~~
22 ~~9.94A.835 where the victim is incapable of appraising the nature of~~
23 ~~the conduct or physically incapable of declining participation in,~~
24 ~~or communicating unwillingness to engage in, the conduct;~~

25 ~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or~~
26 ~~solicitation to commit such an offense; or~~

27 ~~(E) An offense defined by federal law or the laws of another~~
28 ~~state that is equivalent to the offenses listed in (b)(ii)(A)~~
29 ~~through (D) of this subsection.~~

30 ~~(iii) "Criminal offense against a victim who is a minor" means,~~
31 ~~in addition to any aggravated offense or sexually violent offense~~
32 ~~where the victim was under eighteen years of age, an adult~~
33 ~~conviction for the following offenses where the victim is under~~
34 ~~eighteen years of age:~~

1 ~~(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076~~
2 ~~(rape of a child in the second degree), RCW 9A.44.079 (rape of a~~
3 ~~child in the third degree), RCW 9A.44.086 (child molestation in the~~
4 ~~second degree), RCW 9A.44.089 (child molestation in the third~~
5 ~~degree), RCW 9A.44.093 (sexual misconduct with a minor in the first~~
6 ~~degree), RCW 9A.44.096 (sexual misconduct with a minor in the second~~
7 ~~degree), RCW 9A.44.160 (custodial sexual misconduct in the first~~
8 ~~degree), RCW 9A.64.020 (incest), RCW 9.68A.040 (sexual exploitation~~
9 ~~of a minor), RCW 9.68A.090 (communication with a minor for immoral~~
10 ~~purposes), or RCW 9.68A.100 (commercial sexual abuse of a minor);~~

11 ~~(B) RCW 9A.40.020 (kidnapping in the first degree), RCW~~
12 ~~9A.40.030 (kidnapping in the second degree), or RCW 9A.40.040~~
13 ~~(unlawful imprisonment), where the victim is a minor and the~~
14 ~~offender is not the minor's parent;~~

15 ~~(C) A felony with a finding of sexual motivation under RCW~~
16 ~~9.94A.835 where the victim is a minor;~~

17 ~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or~~
18 ~~solicitation to commit such an offense; or~~

19 ~~(E) An offense defined by federal law or the laws of another~~
20 ~~state that is equivalent to the offenses listed in (b)(iii)(A)~~
21 ~~through (D) of this subsection)) If a person is relieved of the duty~~
22 ~~to register pursuant to this section, the relief of registration~~
23 ~~does not constitute a certificate of rehabilitation, or the~~
24 ~~equivalent of a certificate of rehabilitation, for the purposes of~~
25 ~~restoration of firearm possession under RCW 9.41.040.~~

26

27 **Sec. 9.** RCW 9A.44.143 and 2011 c 338 s 1 are each amended to
28 read as follows:

29 (1) An offender having a duty to register under RCW 9A.44.130
30 for a sex offense or kidnapping offense committed when the offender
31 was a juvenile, and who has not been determined to be a sexually
32 violent predator pursuant to chapter 71.09 RCW may petition the
33 superior court to be relieved of that duty as provided in this
34 section.

1 (2) For class A sex offenses or kidnapping offenses committed
2 when the petitioner was fifteen years of age or older, the court may
3 relieve the petitioner of the duty to register if:

4 (a) At least sixty months have passed since the petitioner's
5 adjudication and completion of any term of confinement for the
6 offense giving rise to the duty to register and the petitioner has
7 not been adjudicated or convicted of any additional sex offenses or
8 kidnapping offenses within the sixty months before the petition;

9 (b) The petitioner has not been adjudicated or convicted of a
10 violation of RCW 9A.44.132 (failure to register) during the sixty
11 months prior to filing the petition; and

12 (c) The petitioner shows by a preponderance of the evidence that
13 the petitioner is sufficiently rehabilitated to warrant removal from
14 the central registry of sex offenders and kidnapping offenders.

15 (3) For all other sex offenses or kidnapping offenses committed
16 by a juvenile not included in subsection (2) of this section, the
17 court may relieve the petitioner of the duty to register if:

18 (a) At least twenty-four months have passed since the
19 petitioner's adjudication and completion of any term of confinement
20 for the offense giving rise to the duty to register and the
21 petitioner has not been adjudicated or convicted of any additional
22 sex offenses or kidnapping offenses within the twenty-four months
23 before the petition;

24 (b) The petitioner has not been adjudicated or convicted of a
25 violation of RCW 9A.44.132 (failure to register) during the twenty-
26 four months prior to filing the petition; and

27 (c) The petitioner shows by a preponderance of the evidence that
28 the petitioner is sufficiently rehabilitated to warrant removal from
29 the central registry of sex offenders and kidnapping offenders.

30 (4) A petition for relief from registration under this section
31 shall be made to the court in which the petitioner was convicted of
32 the offense that subjects him or her to the duty to register or, in
33 the case of convictions in other states, a foreign country, or a
34 federal or military court, to the court in ((Thurston)) the county

1 in which the juvenile is registered at the time a petition is
2 sought. The prosecuting attorney of the county shall be named and
3 served as the respondent in any such petition.

4 (5) In determining whether the petitioner is sufficiently
5 rehabilitated to warrant removal from the central registry of sex
6 offenders and kidnapping offenders, the following factors are
7 provided as guidance to assist the court in making its
8 determination, to the extent the factors are applicable considering
9 the age and circumstances of the petitioner:

10 (a) The nature of the registrable offense committed including
11 the number of victims and the length of the offense history;

12 (b) Any subsequent criminal history;

13 (c) The petitioner's compliance with supervision requirements;

14 (d) The length of time since the charged incident(s) occurred;

15 (e) Any input from community corrections officers, juvenile
16 parole or probation officers, law enforcement, or treatment
17 providers;

18 (f) Participation in sex offender treatment;

19 (g) Participation in other treatment and rehabilitative
20 programs;

21 (h) The offender's stability in employment and housing;

22 (i) The offender's community and personal support system;

23 (j) Any risk assessments or evaluations prepared by a qualified
24 professional;

25 (k) Any updated polygraph examination;

26 (l) Any input of the victim;

27 (m) Any other factors the court may consider relevant.

28 (6) If a person is relieved of the duty to register pursuant to
29 this section, the relief of registration does not constitute a
30 certificate of rehabilitation, or the equivalent of a certificate of
31 rehabilitation, for the purposes of restoration of firearm
32 possession under RCW 9.41.040.

33 (7) A juvenile prosecuted and convicted of a sex offense or
34 kidnapping offense as an adult pursuant to RCW 13.40.110 or

1 13.04.030 may not petition to the superior court under this section
2 and must follow the provisions of RCW 9A.44.142.

3 (8) An adult prosecuted for an offense committed as a juvenile
4 once the juvenile court has lost jurisdiction due to the passage of
5 time between the date of the offense and the date of filing of
6 charges may petition the superior court under the provisions of this
7 section.

8
9 **Sec. 10.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to
10 read as follows:

11 (1) A biological sample must be collected for purposes of DNA
12 identification analysis from:

13 (a) Every adult or juvenile individual convicted of a felony, or
14 any of the following crimes (or equivalent juvenile offenses):

15 Assault in the fourth degree with sexual motivation (RCW
16 9A.36.041, 9.94A.835)

17 Communication with a minor for immoral purposes (RCW 9.68A.090)

18 Custodial sexual misconduct in the second degree (RCW 9A.44.170)

19 Failure to register (RCW 9A.44.130 for persons convicted on or
20 before June 10, 2010, and RCW 9A.44.132 for persons convicted after
21 June 10, 2010)

22 Harassment (RCW 9A.46.020)

23 Patronizing a prostitute (RCW 9A.88.110)

24 Sexual misconduct with a minor in the second degree (RCW
25 9A.44.096)

26 Stalking (RCW 9A.46.110)

27 Violation of a sexual assault protection order granted under
28 chapter 7.90 RCW; and

29 (b) Every adult or juvenile individual who is required to
30 register under RCW 9A.44.130.

31 (2) If the Washington state patrol crime laboratory already has
32 a DNA sample from an individual for a qualifying offense, a
33 subsequent submission is not required to be submitted.

34

1 (3) Biological samples shall be collected in the following
2 manner:

3 (a) For persons convicted of any offense listed in subsection
4 (1)(a) of this section or adjudicated guilty of an equivalent
5 juvenile offense who do not serve a term of confinement in a
6 department of corrections facility, and do serve a term of
7 confinement in a city or county jail facility, the city or county
8 shall be responsible for obtaining the biological samples.

9 (b) The local police department or sheriff's office shall be
10 responsible for obtaining the biological samples for:

11 (i) Persons convicted of any offense listed in subsection (1)(a)
12 of this section or adjudicated guilty of an equivalent juvenile
13 offense who do not serve a term of confinement in a department of
14 corrections facility, and do not serve a term of confinement in a
15 city or county jail facility; and

16 (ii) Persons who are required to register under RCW
17 (~~9A.44.030~~) 9A.44.130.

18 (c) For persons convicted of any offense listed in subsection
19 (1)(a) of this section or adjudicated guilty of an equivalent
20 juvenile offense, who are serving or who are to serve a term of
21 confinement in a department of corrections facility or a department
22 of social and health services facility, the facility holding the
23 person shall be responsible for obtaining the biological samples.
24 For those persons incarcerated before June 12, 2008, who have not
25 yet had a biological sample collected, priority shall be given to
26 those persons who will be released the soonest.

27 (4) Any biological sample taken pursuant to RCW 43.43.752
28 through 43.43.758 may be retained by the forensic laboratory
29 services bureau, and shall be used solely for the purpose of
30 providing DNA or other tests for identification analysis and
31 prosecution of a criminal offense or for the identification of human
32 remains or missing persons. Nothing in this section prohibits the
33 submission of results derived from the biological samples to the
34 federal bureau of investigation combined DNA index system.

1 (5) The forensic laboratory services bureau of the Washington
2 state patrol is responsible for testing performed on all biological
3 samples that are collected under subsection (1) of this section, to
4 the extent allowed by funding available for this purpose. The
5 director shall give priority to testing on samples collected from
6 those adults or juveniles convicted of a felony or adjudicated
7 guilty of an equivalent juvenile offense that is defined as a sex
8 offense or a violent offense in RCW 9.94A.030. Known duplicate
9 samples may be excluded from testing unless testing is deemed
10 necessary or advisable by the director.

11 (6) This section applies to:

12 (a) All adults and juveniles to whom this section applied prior
13 to June 12, 2008;

14 (b) All adults and juveniles to whom this section did not apply
15 prior to June 12, 2008, who:

16 (i) Are convicted on or after June 12, 2008, of an offense
17 listed in subsection (1)(a) of this section; or

18 (ii) Were convicted prior to June 12, 2008, of an offense listed
19 in subsection (1)(a) of this section and are still incarcerated on
20 or after June 12, 2008; and

21 (c) All adults and juveniles who are required to register under
22 RCW 9A.44.130 on or after June 12, 2008, whether convicted before,
23 on, or after June 12, 2008.

24 (7) This section creates no rights in a third person. No cause
25 of action may be brought based upon the noncollection or nonanalysis
26 or the delayed collection or analysis of a biological sample
27 authorized to be taken under RCW 43.43.752 through 43.43.758.

28 (8) The detention, arrest, or conviction of a person based upon
29 a database match or database information is not invalidated if it is
30 determined that the sample was obtained or placed in the database by
31 mistake, or if the conviction or juvenile adjudication that resulted
32 in the collection of the biological sample was subsequently vacated
33 or otherwise altered in any future proceeding including but not
34

1 limited to posttrial or postfact-finding motions, appeals, or
2 collateral attacks.

3 (9) A person commits the crime of refusal to provide DNA if the
4 person has a duty to register under RCW 9A.44.130 and the person
5 willfully refuses to comply with a legal request for a DNA sample as
6 required under this section. The refusal to provide DNA is a gross
7 misdemeanor.

8
9 **Sec. 11.** RCW 9.94A.515 and 2013 c 322 s 26, 2013 c 290 s 8,
10 2013 c 267 s 2, and 2013 c 153 s 2 are each reenacted and amended to
11 read as follows:

12 TABLE 2
13 CRIMES INCLUDED WITHIN EACH
14 SERIOUSNESS LEVEL

15	XVI Aggravated Murder 1 (RCW
16	10.95.020)
17	XV Homicide by abuse (RCW 9A.32.055)
18	Malicious explosion 1 (RCW
19	70.74.280(1))
20	Murder 1 (RCW 9A.32.030)
21	XIV Murder 2 (RCW 9A.32.050)
22	Trafficking 1 (RCW 9A.40.100(1))
23	XIII Malicious explosion 2 (RCW
24	70.74.280(2))
25	Malicious placement of an explosive 1
26	(RCW 70.74.270(1))
27	XII Assault 1 (RCW 9A.36.011)
28	Assault of a Child 1 (RCW 9A.36.120)
29	Malicious placement of an imitation
30	device 1 (RCW 70.74.272(1)(a))
31	Promoting Commercial Sexual Abuse
32	of a Minor (RCW 9.68A.101)
33	Rape 1 (RCW 9A.44.040)
34	Rape of a Child 1 (RCW 9A.44.073)

1 Trafficking 2 (RCW
2 9A.40.100 ((~~2~~)) (3))
3 XI Manslaughter 1 (RCW 9A.32.060)
4 Rape 2 (RCW 9A.44.050)
5 Rape of a Child 2 (RCW 9A.44.076)
6 Vehicular Homicide, by being under
7 the influence of intoxicating
8 liquor or any drug (RCW
9 46.61.520)
10 X Child Molestation 1 (RCW 9A.44.083)
11 Criminal Mistreatment 1 (RCW
12 9A.42.020)
13 Indecent Liberties (with forcible
14 compulsion) (RCW
15 9A.44.100(1)(a))
16 Kidnapping 1 (RCW 9A.40.020)
17 Leading Organized Crime (RCW
18 9A.82.060(1)(a))
19 Malicious explosion 3 (RCW
20 70.74.280(3))
21 Sexually Violent Predator Escape
22 (RCW 9A.76.115)
23 IX Abandonment of Dependent Person 1
24 (RCW 9A.42.060)
25 Assault of a Child 2 (RCW 9A.36.130)
26 Explosive devices prohibited (RCW
27 70.74.180)
28 Hit and Run—Death (RCW
29 46.52.020(4)(a))
30 Homicide by Watercraft, by being
31 under the influence of
32 intoxicating liquor or any drug
33 (RCW 79A.60.050)
34 Inciting Criminal Profiteering (RCW

1 9A.82.060(1)(b))
2 Malicious placement of an explosive 2
3 (RCW 70.74.270(2))
4 Robbery 1 (RCW 9A.56.200)
5 Sexual Exploitation (RCW 9.68A.040)
6 VIII Arson 1 (RCW 9A.48.020)
7 Commercial Sexual Abuse of a Minor
8 (RCW 9.68A.100)
9 Homicide by Watercraft, by the
10 operation of any vessel in a
11 reckless manner (RCW
12 79A.60.050)
13 Manslaughter 2 (RCW 9A.32.070)
14 Promoting Prostitution 1 (RCW
15 9A.88.070)
16 Theft of Ammonia (RCW 69.55.010)
17 Vehicular Homicide, by the operation
18 of any vehicle in a reckless
19 manner (RCW 46.61.520)
20 VII Burglary 1 (RCW 9A.52.020)
21 Child Molestation 2 (RCW 9A.44.086)
22 Civil Disorder Training (RCW
23 9A.48.120)
24 Dealing in depictions of minor engaged
25 in sexually explicit conduct 1
26 (RCW 9.68A.050(1))
27 Drive-by Shooting (RCW 9A.36.045)
28 Homicide by Watercraft, by disregard
29 for the safety of others (RCW
30 79A.60.050)
31 Indecent Liberties (without forcible
32 compulsion) (RCW 9A.44.100(1)
33 (b) and (c))
34 Introducing Contraband 1 (RCW

1 9A.76.140)
2 Malicious placement of an explosive 3
3 (RCW 70.74.270(3))
4 Negligently Causing Death By Use of a
5 Signal Preemption Device (RCW
6 46.37.675)
7 Sending, bringing into state depictions
8 of minor engaged in sexually
9 explicit conduct 1 (RCW
10 9.68A.060(1))
11 Unlawful Possession of a Firearm in
12 the first degree (RCW
13 9.41.040(1))
14 Use of a Machine Gun in Commission
15 of a Felony (RCW 9.41.225)
16 Vehicular Homicide, by disregard for
17 the safety of others (RCW
18 46.61.520)
19 VI Bail Jumping with Murder 1 (RCW
20 9A.76.170(3)(a))
21 Bribery (RCW 9A.68.010)
22 Incest 1 (RCW 9A.64.020(1))
23 Intimidating a Judge (RCW 9A.72.160)
24 Intimidating a Juror/Witness (RCW
25 9A.72.110, 9A.72.130)
26 Malicious placement of an imitation
27 device 2 (RCW 70.74.272(1)(b))
28 Possession of Depictions of a Minor
29 Engaged in Sexually Explicit
30 Conduct 1 (RCW 9.68A.070(1))
31 Rape of a Child 3 (RCW 9A.44.079)
32 Theft of a Firearm (RCW 9A.56.300)
33 Unlawful Storage of Ammonia (RCW
34 69.55.020)

1 V Abandonment of Dependent Person 2
2 (RCW 9A.42.070)
3 Advancing money or property for
4 extortionate extension of credit
5 (RCW 9A.82.030)
6 Bail Jumping with class A Felony
7 (RCW 9A.76.170(3)(b))
8 Child Molestation 3 (RCW 9A.44.089)
9 Criminal Mistreatment 2 (RCW
10 9A.42.030)
11 Custodial Sexual Misconduct 1 (RCW
12 9A.44.160)
13 Dealing in Depictions of Minor
14 Engaged in Sexually Explicit
15 Conduct 2 (RCW 9.68A.050(2))
16 Domestic Violence Court Order
17 Violation (RCW 10.99.040,
18 10.99.050, 26.09.300, 26.10.220,
19 26.26.138, 26.50.110, 26.52.070,
20 or 74.34.145)
21 Driving While Under the Influence
22 (RCW 46.61.502(6))
23 Extortion 1 (RCW 9A.56.120)
24 Extortionate Extension of Credit (RCW
25 9A.82.020)
26 Extortionate Means to Collect
27 Extensions of Credit (RCW
28 9A.82.040)
29 Incest 2 (RCW 9A.64.020(2))
30 Kidnapping 2 (RCW 9A.40.030)
31 Perjury 1 (RCW 9A.72.020)
32 Persistent prison misbehavior (RCW
33 9.94.070)
34 Physical Control of a Vehicle While

1 Under the Influence (RCW
2 46.61.504(6))
3 Possession of a Stolen Firearm (RCW
4 9A.56.310)
5 Rape 3 (RCW 9A.44.060)
6 Rendering Criminal Assistance 1
7 (RCW 9A.76.070)
8 Sending, Bringing into State Depictions
9 of Minor Engaged in Sexually
10 Explicit Conduct 2 (RCW
11 9.68A.060(2))
12 Sexual Misconduct with a Minor 1
13 (RCW 9A.44.093)
14 Sexually Violating Human Remains
15 (RCW 9A.44.105)
16 Stalking (RCW 9A.46.110)
17 Taking Motor Vehicle Without
18 Permission 1 (RCW 9A.56.070)
19 IV Arson 2 (RCW 9A.48.030)
20 Assault 2 (RCW 9A.36.021)
21 Assault 3 (of a Peace Officer with a
22 Projectile Stun Gun) (RCW
23 9A.36.031(1)(h))
24 Assault by Watercraft (RCW
25 79A.60.060)
26 Bribing a Witness/Bribe Received by
27 Witness (RCW 9A.72.090,
28 9A.72.100)
29 Cheating 1 (RCW 9.46.1961)
30 Commercial Bribery (RCW 9A.68.060)
31 Counterfeiting (RCW 9.16.035(4))
32 Endangerment with a Controlled
33 Substance (RCW 9A.42.100)
34 Escape 1 (RCW 9A.76.110)

1 Hit and Run—Injury (RCW
2 46.52.020(4)(b))
3 Hit and Run with Vessel—Injury
4 Accident (RCW 79A.60.200(3))
5 Identity Theft 1 (RCW 9.35.020(2))
6 Indecent Exposure to Person Under
7 Age Fourteen (subsequent sex
8 offense) (RCW 9A.88.010)
9 Influencing Outcome of Sporting Event
10 (RCW 9A.82.070)
11 Malicious Harassment (RCW
12 9A.36.080)
13 Possession of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct 2 (RCW 9.68A.070(2))
16 Residential Burglary (RCW
17 9A.52.025)
18 Robbery 2 (RCW 9A.56.210)
19 Theft of Livestock 1 (RCW 9A.56.080)
20 Threats to Bomb (RCW 9.61.160)
21 Trafficking in Stolen Property 1 (RCW
22 9A.82.050)
23 Unlawful factoring of a credit card or
24 payment card transaction (RCW
25 9A.56.290(4)(b))
26 Unlawful transaction of health
27 coverage as a health care service
28 contractor (RCW 48.44.016(3))
29 Unlawful transaction of health
30 coverage as a health maintenance
31 organization (RCW
32 48.46.033(3))
33 Unlawful transaction of insurance
34 business (RCW 48.15.023(3))

1 Unlicensed practice as an insurance
2 professional (RCW 48.17.063(2))
3 Use of Proceeds of Criminal
4 Profiteering (RCW 9A.82.080
5 (1) and (2))
6 Vehicle Prowling 2 (third or subsequent
7 offense) (RCW 9A.52.100(3))
8 Vehicular Assault, by being under the
9 influence of intoxicating liquor
10 or any drug, or by the operation
11 or driving of a vehicle in a
12 reckless manner (RCW
13 46.61.522)
14 Viewing of Depictions of a Minor
15 Engaged in Sexually Explicit
16 Conduct 1 (RCW 9.68A.075(1))
17 Willful Failure to Return from
18 Furlough (RCW 72.66.060)
19 III Animal Cruelty 1 (Sexual Conduct or
20 Contact) (RCW 16.52.205(3))
21 Assault 3 (Except Assault 3 of a Peace
22 Officer With a Projectile Stun
23 Gun) (RCW 9A.36.031 except
24 subsection (1)(h))
25 Assault of a Child 3 (RCW 9A.36.140)
26 Bail Jumping with class B or C Felony
27 (RCW 9A.76.170(3)(c))
28 Burglary 2 (RCW 9A.52.030)
29 Communication with a Minor for
30 Immoral Purposes (RCW
31 9.68A.090)
32 Criminal Gang Intimidation (RCW
33 9A.46.120)
34 Custodial Assault (RCW 9A.36.100)

1 Cyberstalking (subsequent conviction
2 or threat of death) (RCW
3 9.61.260(3))
4 Escape 2 (RCW 9A.76.120)
5 Extortion 2 (RCW 9A.56.130)
6 Harassment (RCW 9A.46.020)
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Introducing Contraband 2 (RCW
10 9A.76.150)
11 Malicious Injury to Railroad Property
12 (RCW 81.60.070)
13 Mortgage Fraud (RCW 19.144.080)
14 Negligently Causing Substantial Bodily
15 Harm By Use of a Signal
16 Preemption Device (RCW
17 46.37.674)
18 Organized Retail Theft 1 (RCW
19 9A.56.350(2))
20 Perjury 2 (RCW 9A.72.030)
21 Possession of Incendiary Device (RCW
22 9.40.120)
23 Possession of Machine Gun or Short-
24 Barreled Shotgun or Rifle (RCW
25 9.41.190)
26 Promoting Prostitution 2 (RCW
27 9A.88.080)
28 Retail Theft with Special Circumstances
29 1 (RCW 9A.56.360(2))
30 Securities Act violation (RCW
31 21.20.400)
32 Tampering with a Witness (RCW
33 9A.72.120)
34 Telephone Harassment (subsequent

1 conviction or threat of death)
2 (RCW 9.61.230(2))
3 Theft of Livestock 2 (RCW 9A.56.083)
4 Theft with the Intent to Resell 1 (RCW
5 9A.56.340(2))
6 Trafficking in Stolen Property 2 (RCW
7 9A.82.055)
8 Unlawful Hunting of Big Game 1
9 (RCW 77.15.410(3)(b))
10 Unlawful Imprisonment (RCW
11 9A.40.040)
12 Unlawful Misbranding of Food Fish or
13 Shellfish 1 (RCW 69.04.938(3))
14 Unlawful possession of firearm in the
15 second degree (RCW
16 9.41.040(2))
17 Unlawful Taking of Endangered Fish
18 or Wildlife 1 (RCW
19 77.15.120(3)(b))
20 Unlawful Trafficking in Fish, Shellfish,
21 or Wildlife 1 (RCW
22 77.15.260(3)(b))
23 Unlawful Use of a Nondesigned
24 Vessel (RCW 77.15.530(4))
25 Vehicular Assault, by the operation or
26 driving of a vehicle with
27 disregard for the safety of
28 others (RCW 46.61.522)
29 Willful Failure to Return from Work
30 Release (RCW 72.65.070)
31 II Commercial Fishing Without a License
32 1 (RCW 77.15.500(3)(b))
33 Computer Trespass 1 (RCW
34 9A.52.110)

1 Counterfeiting (RCW 9.16.035(3))
2 Engaging in Fish Dealing Activity
3 Unlicensed 1 (RCW
4 77.15.620(3))
5 Escape from Community Custody
6 (RCW 72.09.310)
7 Failure to Register as a Sex Offender
8 (second or subsequent offense)
9 (RCW 9A.44.130 prior to June
10 10, 2010, and RCW 9A.44.132)
11 Health Care False Claims (RCW
12 48.80.030)
13 Identity Theft 2 (RCW 9.35.020(3))
14 Improperly Obtaining Financial
15 Information (RCW 9.35.010)
16 Malicious Mischief 1 (RCW
17 9A.48.070)
18 Organized Retail Theft 2 (RCW
19 9A.56.350(3))
20 Possession of Stolen Property 1 (RCW
21 9A.56.150)
22 Possession of a Stolen Vehicle (RCW
23 9A.56.068)
24 Retail Theft with Special Circumstances
25 2 (RCW 9A.56.360(3))
26 Scrap Processing, Recycling, or
27 Supplying Without a License
28 (second or subsequent offense)
29 (RCW 19.290.100)
30 Theft 1 (RCW 9A.56.030)
31 Theft of a Motor Vehicle (RCW
32 9A.56.065)
33 Theft of Rental, Leased, or Lease-
34 purchased Property (valued at

1 one thousand five hundred
2 dollars or more) (RCW
3 9A.56.096(5)(a))
4 Theft with the Intent to Resell 2 (RCW
5 9A.56.340(3))
6 Trafficking in Insurance Claims (RCW
7 48.30A.015)
8 Unlawful factoring of a credit card or
9 payment card transaction (RCW
10 9A.56.290(4)(a))
11 Unlawful Participation of Non-Indians
12 in Indian Fishery (RCW
13 77.15.570(2))
14 Unlawful Practice of Law (RCW
15 2.48.180)
16 Unlawful Purchase or Use of a License
17 (RCW 77.15.650(3)(b))
18 Unlawful Trafficking in Fish, Shellfish,
19 or Wildlife 2 (RCW
20 77.15.260(3)(a))
21 Unlicensed Practice of a Profession or
22 Business (RCW 18.130.190(7))
23 Voyeurism (RCW 9A.44.115)
24 I Attempting to Elude a Pursuing Police
25 Vehicle (RCW 46.61.024)
26 False Verification for Welfare (RCW
27 74.08.055)
28 Forgery (RCW 9A.60.020)
29 Fraudulent Creation or Revocation of a
30 Mental Health Advance
31 Directive (RCW 9A.60.060)
32 Malicious Mischief 2 (RCW
33 9A.48.080)
34 Mineral Trespass (RCW 78.44.330)

1 Possession of Stolen Property 2 (RCW
2 9A.56.160)
3 Reckless Burning 1 (RCW 9A.48.040)
4 Spotlighting Big Game 1 (RCW
5 77.15.450(3)(b))
6 Suspension of Department Privileges 1
7 (RCW 77.15.670(3)(b))
8 Taking Motor Vehicle Without
9 Permission 2 (RCW 9A.56.075)
10 Theft 2 (RCW 9A.56.040)
11 Theft of Rental, Leased, or Lease-
12 purchased Property (valued at
13 two hundred fifty dollars or more
14 but less than one thousand five
15 hundred dollars) (RCW
16 9A.56.096(5)(b))
17 Transaction of insurance business
18 beyond the scope of licensure
19 (RCW 48.17.063)
20 Unlawful Fish and Shellfish Catch
21 Accounting (RCW
22 77.15.630(3)(b))
23 Unlawful Issuance of Checks or Drafts
24 (RCW 9A.56.060)
25 Unlawful Possession of Fictitious
26 Identification (RCW 9A.56.320)
27 Unlawful Possession of Instruments of
28 Financial Fraud (RCW
29 9A.56.320)
30 Unlawful Possession of Payment
31 Instruments (RCW 9A.56.320)
32 Unlawful Possession of a Personal
33 Identification Device (RCW
34 9A.56.320)

1 Unlawful Production of Payment
2 Instruments (RCW 9A.56.320)
3 Unlawful ((~~Release of~~)) Releasing,
4 planting, possessing, or placing
5 Deleterious Exotic Wildlife
6 (RCW 77.15.250(2)(b))
7 Unlawful Trafficking in Food Stamps
8 (RCW 9.91.142)
9 Unlawful Use of Food Stamps (RCW
10 9.91.144)
11 Unlawful Use of Net to Take Fish 1
12 (RCW 77.15.580(3)(b))
13 Unlawful Use of Prohibited Aquatic
14 Animal Species (RCW
15 77.15.253(3))
16 Vehicle Prowl 1 (RCW 9A.52.095)
17 Violating Commercial Fishing Area or
18 Time 1 (RCW 77.15.550(3)(b))
19

20 **Sec. 12.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to
21 read as follows:

22 Unless the context clearly requires otherwise, the definitions
23 in this section apply throughout this chapter.

24 (1) "Board" means the indeterminate sentence review board
25 created under chapter 9.95 RCW.

26 (2) "Collect," or any derivative thereof, "collect and remit,"
27 or "collect and deliver," when used with reference to the
28 department, means that the department, either directly or through a
29 collection agreement authorized by RCW 9.94A.760, is responsible for
30 monitoring and enforcing the offender's sentence with regard to the
31 legal financial obligation, receiving payment thereof from the
32 offender, and, consistent with current law, delivering daily the
33 entire payment to the superior court clerk without depositing it in
34 a departmental account.

1 (3) "Commission" means the sentencing guidelines commission.

2 (4) "Community corrections officer" means an employee of the
3 department who is responsible for carrying out specific duties in
4 supervision of sentenced offenders and monitoring of sentence
5 conditions.

6 (5) "Community custody" means that portion of an offender's
7 sentence of confinement in lieu of earned release time or imposed as
8 part of a sentence under this chapter and served in the community
9 subject to controls placed on the offender's movement and activities
10 by the department.

11 (6) "Community protection zone" means the area within eight
12 hundred eighty feet of the facilities and grounds of a public or
13 private school.

14 (7) "Community restitution" means compulsory service, without
15 compensation, performed for the benefit of the community by the
16 offender.

17 (8) "Confinement" means total or partial confinement.

18 (9) "Conviction" means an adjudication of guilt pursuant to
19 Title 10 or 13 RCW and includes a verdict of guilty, a finding of
20 guilty, and acceptance of a plea of guilty.

21 (10) "Crime-related prohibition" means an order of a court
22 prohibiting conduct that directly relates to the circumstances of
23 the crime for which the offender has been convicted, and shall not
24 be construed to mean orders directing an offender affirmatively to
25 participate in rehabilitative programs or to otherwise perform
26 affirmative conduct. However, affirmative acts necessary to monitor
27 compliance with the order of a court may be required by the
28 department.

29 (11) "Criminal history" means the list of a defendant's prior
30 convictions and juvenile adjudications, whether in this state, in
31 federal court, or elsewhere.

32 (a) The history shall include, where known, for each conviction
33 (i) whether the defendant has been placed on probation and the

34

1 length and terms thereof; and (ii) whether the defendant has been
2 incarcerated and the length of incarceration.

3 (b) A conviction may be removed from a defendant's criminal
4 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
5 9.95.240, or a similar out-of-state statute, or if the conviction
6 has been vacated pursuant to a governor's pardon.

7 (c) The determination of a defendant's criminal history is
8 distinct from the determination of an offender score. A prior
9 conviction that was not included in an offender score calculated
10 pursuant to a former version of the sentencing reform act remains
11 part of the defendant's criminal history.

12 (12) "Criminal street gang" means any ongoing organization,
13 association, or group of three or more persons, whether formal or
14 informal, having a common name or common identifying sign or symbol,
15 having as one of its primary activities the commission of criminal
16 acts, and whose members or associates individually or collectively
17 engage in or have engaged in a pattern of criminal street gang
18 activity. This definition does not apply to employees engaged in
19 concerted activities for their mutual aid and protection, or to the
20 activities of labor and bona fide nonprofit organizations or their
21 members or agents.

22 (13) "Criminal street gang associate or member" means any person
23 who actively participates in any criminal street gang and who
24 intentionally promotes, furthers, or assists in any criminal act by
25 the criminal street gang.

26 (14) "Criminal street gang-related offense" means any felony or
27 misdemeanor offense, whether in this state or elsewhere, that is
28 committed for the benefit of, at the direction of, or in association
29 with any criminal street gang, or is committed with the intent to
30 promote, further, or assist in any criminal conduct by the gang, or
31 is committed for one or more of the following reasons:

32 (a) To gain admission, prestige, or promotion within the gang;

33 (b) To increase or maintain the gang's size, membership,
34 prestige, dominance, or control in any geographical area;

1 (c) To exact revenge or retribution for the gang or any member
2 of the gang;

3 (d) To obstruct justice, or intimidate or eliminate any witness
4 against the gang or any member of the gang;

5 (e) To directly or indirectly cause any benefit, aggrandizement,
6 gain, profit, or other advantage for the gang, its reputation,
7 influence, or membership; or

8 (f) To provide the gang with any advantage in, or any control or
9 dominance over any criminal market sector, including, but not
10 limited to, manufacturing, delivering, or selling any controlled
11 substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW);
12 trafficking in stolen property (chapter 9A.82 RCW); promoting
13 prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100);
14 promoting commercial sexual abuse of a minor (RCW 9.68A.101); or
15 promoting pornography (chapter 9.68 RCW).

16 (15) "Day fine" means a fine imposed by the sentencing court
17 that equals the difference between the offender's net daily income
18 and the reasonable obligations that the offender has for the support
19 of the offender and any dependents.

20 (16) "Day reporting" means a program of enhanced supervision
21 designed to monitor the offender's daily activities and compliance
22 with sentence conditions, and in which the offender is required to
23 report daily to a specific location designated by the department or
24 the sentencing court.

25 (17) "Department" means the department of corrections.

26 (18) "Determinate sentence" means a sentence that states with
27 exactitude the number of actual years, months, or days of total
28 confinement, of partial confinement, of community custody, the
29 number of actual hours or days of community restitution work, or
30 dollars or terms of a legal financial obligation. The fact that an
31 offender through earned release can reduce the actual period of
32 confinement shall not affect the classification of the sentence as a
33 determinate sentence.

34

1 (19) "Disposable earnings" means that part of the earnings of an
2 offender remaining after the deduction from those earnings of any
3 amount required by law to be withheld. For the purposes of this
4 definition, "earnings" means compensation paid or payable for
5 personal services, whether denominated as wages, salary, commission,
6 bonuses, or otherwise, and, notwithstanding any other provision of
7 law making the payments exempt from garnishment, attachment, or
8 other process to satisfy a court-ordered legal financial obligation,
9 specifically includes periodic payments pursuant to pension or
10 retirement programs, or insurance policies of any type, but does not
11 include payments made under Title 50 RCW, except as provided in RCW
12 50.40.020 and 50.40.050, or Title 74 RCW.

13 (20) "Domestic violence" has the same meaning as defined in RCW
14 10.99.020 and 26.50.010.

15 (21) "Drug offender sentencing alternative" is a sentencing
16 option available to persons convicted of a felony offense other than
17 a violent offense or a sex offense and who are eligible for the
18 option under RCW 9.94A.660.

19 (22) "Drug offense" means:

20 (a) Any felony violation of chapter 69.50 RCW except possession
21 of a controlled substance (RCW 69.50.4013) or forged prescription
22 for a controlled substance (RCW 69.50.403);

23 (b) Any offense defined as a felony under federal law that
24 relates to the possession, manufacture, distribution, or
25 transportation of a controlled substance; or

26 (c) Any out-of-state conviction for an offense that under the
27 laws of this state would be a felony classified as a drug offense
28 under (a) of this subsection.

29 (23) "Earned release" means earned release from confinement as
30 provided in RCW 9.94A.728.

31 (24) "Escape" means:

32 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
33 the first degree (RCW 9A.76.110), escape in the second degree (RCW
34 9A.76.120), willful failure to return from furlough (RCW 72.66.060),

1 willful failure to return from work release (RCW 72.65.070), or
2 willful failure to be available for supervision by the department
3 while in community custody (RCW 72.09.310); or

4 (b) Any federal or out-of-state conviction for an offense that
5 under the laws of this state would be a felony classified as an
6 escape under (a) of this subsection.

7 (25) "Felony traffic offense" means:

8 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
9 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-
10 and-run injury-accident (RCW 46.52.020(4)), felony driving while
11 under the influence of intoxicating liquor or any drug (RCW
12 46.61.502(6)), or felony physical control of a vehicle while under
13 the influence of intoxicating liquor or any drug (RCW 46.61.504(6));
14 or

15 (b) Any federal or out-of-state conviction for an offense that
16 under the laws of this state would be a felony classified as a
17 felony traffic offense under (a) of this subsection.

18 (26) "Fine" means a specific sum of money ordered by the
19 sentencing court to be paid by the offender to the court over a
20 specific period of time.

21 (27) "First-time offender" means any person who has no prior
22 convictions for a felony and is eligible for the first-time offender
23 waiver under RCW 9.94A.650.

24 (28) "Home detention" means a program of partial confinement
25 available to offenders wherein the offender is confined in a private
26 residence subject to electronic surveillance.

27 (29) "Homelessness" or "homeless" means a condition where an
28 individual lacks a fixed, regular, and adequate nighttime residence
29 and who has a primary nighttime residence that is:

30 (a) A supervised, publicly or privately operated shelter
31 designed to provide temporary living accommodations;

32 (b) A public or private place not designed for, or ordinarily
33 used as, a regular sleeping accommodation for human beings; or

34

1 (c) A private residence where the individual stays as a
2 transient invitee.

3 (30) "Legal financial obligation" means a sum of money that is
4 ordered by a superior court of the state of Washington for legal
5 financial obligations which may include restitution to the victim,
6 statutorily imposed crime victims' compensation fees as assessed
7 pursuant to RCW 7.68.035, court costs, county or interlocal drug
8 funds, court-appointed attorneys' fees, and costs of defense, fines,
9 and any other financial obligation that is assessed to the offender
10 as a result of a felony conviction. Upon conviction for vehicular
11 assault while under the influence of intoxicating liquor or any
12 drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
13 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
14 legal financial obligations may also include payment to a public
15 agency of the expense of an emergency response to the incident
16 resulting in the conviction, subject to RCW 38.52.430.

17 (31) "Minor child" means a biological or adopted child of the
18 offender who is under age eighteen at the time of the offender's
19 current offense.

20 (32) "Most serious offense" means any of the following felonies
21 or a felony attempt to commit any of the following felonies:

22 (a) Any felony defined under any law as a class A felony or
23 criminal solicitation of or criminal conspiracy to commit a class A
24 felony;

25 (b) Assault in the second degree;

26 (c) Assault of a child in the second degree;

27 (d) Child molestation in the second degree;

28 (e) Controlled substance homicide;

29 (f) Extortion in the first degree;

30 (g) Incest when committed against a child under age fourteen;

31 (h) Indecent liberties;

32 (i) Kidnapping in the second degree;

33 (j) Leading organized crime;

34 (k) Manslaughter in the first degree;

1 (l) Manslaughter in the second degree;
2 (m) Promoting prostitution in the first degree;
3 (n) Rape in the third degree;
4 (o) Robbery in the second degree;
5 (p) Sexual exploitation;
6 (q) Vehicular assault, when caused by the operation or driving
7 of a vehicle by a person while under the influence of intoxicating
8 liquor or any drug or by the operation or driving of a vehicle in a
9 reckless manner;
10 (r) Vehicular homicide, when proximately caused by the driving
11 of any vehicle by any person while under the influence of
12 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
13 the operation of any vehicle in a reckless manner;
14 (s) Any other class B felony offense with a finding of sexual
15 motivation;
16 (t) Any other felony with a deadly weapon verdict under RCW
17 9.94A.825;
18 (u) Any felony offense in effect at any time prior to December
19 2, 1993, that is comparable to a most serious offense under this
20 subsection, or any federal or out-of-state conviction for an offense
21 that under the laws of this state would be a felony classified as a
22 most serious offense under this subsection;
23 (v)(i) A prior conviction for indecent liberties under RCW
24 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
25 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
26 and (c) as it existed from July 1, 1979, until June 11, 1986, and
27 RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
28 until July 1, 1988;
29 (ii) A prior conviction for indecent liberties under RCW
30 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1,
31 1988, if: (A) The crime was committed against a child under the age
32 of fourteen; or (B) the relationship between the victim and
33 perpetrator is included in the definition of indecent liberties
34 under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through

1 July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from
2 July 25, 1993, through July 27, 1997;

3 (w) Any out-of-state conviction for a felony offense with a
4 finding of sexual motivation if the minimum sentence imposed was ten
5 years or more; provided that the out-of-state felony offense must be
6 comparable to a felony offense under this title and Title 9A RCW and
7 the out-of-state definition of sexual motivation must be comparable
8 to the definition of sexual motivation contained in this section.

9 (33) "Nonviolent offense" means an offense which is not a
10 violent offense.

11 (34) "Offender" means a person who has committed a felony
12 established by state law and is eighteen years of age or older or is
13 less than eighteen years of age but whose case is under superior
14 court jurisdiction under RCW 13.04.030 or has been transferred by
15 the appropriate juvenile court to a criminal court pursuant to RCW
16 13.40.110. In addition, for the purpose of community custody
17 requirements under this chapter, "offender" also means a
18 misdemeanor or gross misdemeanor probationer ordered by a superior
19 court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210
20 and supervised by the department pursuant to RCW 9.94A.501 and
21 9.94A.5011. Throughout this chapter, the terms "offender" and
22 "defendant" are used interchangeably.

23 (35) "Partial confinement" means confinement for no more than
24 one year in a facility or institution operated or utilized under
25 contract by the state or any other unit of government, or, if home
26 detention or work crew has been ordered by the court or home
27 detention has been ordered by the department as part of the
28 parenting program, in an approved residence, for a substantial
29 portion of each day with the balance of the day spent in the
30 community. Partial confinement includes work release, home
31 detention, work crew, and a combination of work crew and home
32 detention.

33 (36) "Pattern of criminal street gang activity" means:
34

1 (a) The commission, attempt, conspiracy, or solicitation of, or
2 any prior juvenile adjudication of or adult conviction of, two or
3 more of the following criminal street gang-related offenses:
4 (i) Any "serious violent" felony offense as defined in this
5 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of
6 a Child 1 (RCW 9A.36.120);
7 (ii) Any "violent" offense as defined by this section, excluding
8 Assault of a Child 2 (RCW 9A.36.130);
9 (iii) Deliver or Possession with Intent to Deliver a Controlled
10 Substance (chapter 69.50 RCW);
11 (iv) Any violation of the firearms and dangerous weapon act
12 (chapter 9.41 RCW);
13 (v) Theft of a Firearm (RCW 9A.56.300);
14 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
15 (vii) Malicious Harassment (RCW 9A.36.080);
16 (viii) Harassment where a subsequent violation or deadly threat
17 is made (RCW 9A.46.020(2)(b));
18 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
19 (x) Any felony conviction by a person eighteen years of age or
20 older with a special finding of involving a juvenile in a felony
21 offense under RCW 9.94A.833;
22 (xi) Residential Burglary (RCW 9A.52.025);
23 (xii) Burglary 2 (RCW 9A.52.030);
24 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
25 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
26 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
27 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
28 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
29 9A.56.070);
30 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
31 9A.56.075);
32 (xix) Extortion 1 (RCW 9A.56.120);
33 (xx) Extortion 2 (RCW 9A.56.130);
34 (xxi) Intimidating a Witness (RCW 9A.72.110);

1 (xxii) Tampering with a Witness (RCW 9A.72.120);

2 (xxiii) Reckless Endangerment (RCW 9A.36.050);

3 (xxiv) Coercion (RCW 9A.36.070);

4 (xxv) Harassment (RCW 9A.46.020); or

5 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

6 (b) That at least one of the offenses listed in (a) of this
7 subsection shall have occurred after July 1, 2008;

8 (c) That the most recent committed offense listed in (a) of this
9 subsection occurred within three years of a prior offense listed in
10 (a) of this subsection; and

11 (d) Of the offenses that were committed in (a) of this
12 subsection, the offenses occurred on separate occasions or were
13 committed by two or more persons.

14 (37) "Persistent offender" is an offender who:

15 (a)(i) Has been convicted in this state of any felony considered
16 a most serious offense; and

17 (ii) Has, before the commission of the offense under (a) of this
18 subsection, been convicted as an offender on at least two separate
19 occasions, whether in this state or elsewhere, of felonies that
20 under the laws of this state would be considered most serious
21 offenses and would be included in the offender score under RCW
22 9.94A.525; provided that of the two or more previous convictions, at
23 least one conviction must have occurred before the commission of any
24 of the other most serious offenses for which the offender was
25 previously convicted; or

26 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
27 of a child in the first degree, child molestation in the first
28 degree, rape in the second degree, rape of a child in the second
29 degree, or indecent liberties by forcible compulsion; (B) any of the
30 following offenses with a finding of sexual motivation: Murder in
31 the first degree, murder in the second degree, homicide by abuse,
32 kidnapping in the first degree, kidnapping in the second degree,
33 assault in the first degree, assault in the second degree, assault
34 of a child in the first degree, assault of a child in the second

1 degree, or burglary in the first degree; or (C) an attempt to commit
2 any crime listed in this subsection (37)(b)(i); and

3 (ii) Has, before the commission of the offense under (b)(i) of
4 this subsection, been convicted as an offender on at least one
5 occasion, whether in this state or elsewhere, of an offense listed
6 in (b)(i) of this subsection or any federal or out-of-state offense
7 or offense under prior Washington law that is comparable to the
8 offenses listed in (b)(i) of this subsection. A conviction for rape
9 of a child in the first degree constitutes a conviction under (b)(i)
10 of this subsection only when the offender was sixteen years of age
11 or older when the offender committed the offense. A conviction for
12 rape of a child in the second degree constitutes a conviction under
13 (b)(i) of this subsection only when the offender was eighteen years
14 of age or older when the offender committed the offense.

15 (38) "Predatory" means: (a) The perpetrator of the crime was a
16 stranger to the victim, as defined in this section; (b) the
17 perpetrator established or promoted a relationship with the victim
18 prior to the offense and the victimization of the victim was a
19 significant reason the perpetrator established or promoted the
20 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
21 volunteer, or other person in authority in any public or private
22 school and the victim was a student of the school under his or her
23 authority or supervision. For purposes of this subsection, "school"
24 does not include home-based instruction as defined in RCW
25 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
26 authority in any recreational activity and the victim was a
27 participant in the activity under his or her authority or
28 supervision; (iii) a pastor, elder, volunteer, or other person in
29 authority in any church or religious organization, and the victim
30 was a member or participant of the organization under his or her
31 authority; or (iv) a teacher, counselor, volunteer, or other person
32 in authority providing home-based instruction and the victim was a
33 student receiving home-based instruction while under his or her
34 authority or supervision. For purposes of this subsection: (A)

1 "Home-based instruction" has the same meaning as defined in RCW
2 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
3 in authority" does not include the parent or legal guardian of the
4 victim.

5 (39) "Private school" means a school regulated under chapter
6 28A.195 or 28A.205 RCW.

7 (40) "Public school" has the same meaning as in RCW 28A.150.010.

8 (41) "Repetitive domestic violence offense" means any:

9 (a)(i) Domestic violence assault that is not a felony offense
10 under RCW 9A.36.041;

11 (ii) Domestic violence violation of a no-contact order under
12 chapter 10.99 RCW that is not a felony offense;

13 (iii) Domestic violence violation of a protection order under
14 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony
15 offense;

16 (iv) Domestic violence harassment offense under RCW 9A.46.020
17 that is not a felony offense; or

18 (v) Domestic violence stalking offense under RCW 9A.46.110 that
19 is not a felony offense; or

20 (b) Any federal, out-of-state, tribal court, military, county,
21 or municipal conviction for an offense that under the laws of this
22 state would be classified as a repetitive domestic violence offense
23 under (a) of this subsection.

24 (42) "Restitution" means a specific sum of money ordered by the
25 sentencing court to be paid by the offender to the court over a
26 specified period of time as payment of damages. The sum may include
27 both public and private costs.

28 (43) "Risk assessment" means the application of the risk
29 instrument recommended to the department by the Washington state
30 institute for public policy as having the highest degree of
31 predictive accuracy for assessing an offender's risk of reoffense.

32 (44) "Serious traffic offense" means:

33 (a) Nonfelony driving while under the influence of intoxicating
34 liquor or any drug (RCW 46.61.502), nonfelony actual physical

1 control while under the influence of intoxicating liquor or any drug
2 (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
3 attended vehicle (RCW 46.52.020(5)); or

4 (b) Any federal, out-of-state, county, or municipal conviction
5 for an offense that under the laws of this state would be classified
6 as a serious traffic offense under (a) of this subsection.

7 (45) "Serious violent offense" is a subcategory of violent
8 offense and means:

- 9 (a)(i) Murder in the first degree;
- 10 (ii) Homicide by abuse;
- 11 (iii) Murder in the second degree;
- 12 (iv) Manslaughter in the first degree;
- 13 (v) Assault in the first degree;
- 14 (vi) Kidnapping in the first degree;
- 15 (vii) Rape in the first degree;
- 16 (viii) Assault of a child in the first degree; or
- 17 (ix) An attempt, criminal solicitation, or criminal conspiracy
18 to commit one of these felonies; or

19 (b) Any federal or out-of-state conviction for an offense that
20 under the laws of this state would be a felony classified as a
21 serious violent offense under (a) of this subsection.

22 (46) "Sex offense" means:

- 23 (a)(i) A felony that is a violation of chapter 9A.44 RCW other
24 than RCW 9A.44.132;
- 25 (ii) A violation of RCW 9A.64.020;
- 26 (iii) A felony that is a violation of chapter 9.68A RCW other
27 than RCW 9.68A.080;
- 28 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
29 attempt, criminal solicitation, or criminal conspiracy to commit
30 such crimes; or
- 31 (v) A felony violation of RCW 9A.44.132(1) (failure to register
32 as a sex offender) if the person has been convicted of violating RCW
33 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
34 prior to June 10, 2010, on at least one prior occasion;

1 (b) Any conviction for a felony offense in effect at any time
2 prior to July 1, 1976, that is comparable to a felony classified as
3 a sex offense in (a) of this subsection;

4 (c) A felony with a finding of sexual motivation under RCW
5 9.94A.835 or 13.40.135; or

6 (d) Any federal or out-of-state conviction for an offense that
7 under the laws of this state would be a felony classified as a sex
8 offense under (a) of this subsection.

9 (47) "Sexual motivation" means that one of the purposes for
10 which the defendant committed the crime was for the purpose of his
11 or her sexual gratification.

12 (48) "Standard sentence range" means the sentencing court's
13 discretionary range in imposing a nonappealable sentence.

14 (49) "Statutory maximum sentence" means the maximum length of
15 time for which an offender may be confined as punishment for a crime
16 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
17 defining the crime, or other statute defining the maximum penalty
18 for a crime.

19 (50) "Stranger" means that the victim did not know the offender
20 twenty-four hours before the offense.

21 (51) "Total confinement" means confinement inside the physical
22 boundaries of a facility or institution operated or utilized under
23 contract by the state or any other unit of government for twenty-
24 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

25 (52) "Transition training" means written and verbal instructions
26 and assistance provided by the department to the offender during the
27 two weeks prior to the offender's successful completion of the work
28 ethic camp program. The transition training shall include
29 instructions in the offender's requirements and obligations during
30 the offender's period of community custody.

31 (53) "Victim" means any person who has sustained emotional,
32 psychological, physical, or financial injury to person or property
33 as a direct result of the crime charged.

34 (54) "Violent offense" means:

1 (a) Any of the following felonies:
2 (i) Any felony defined under any law as a class A felony or an
3 attempt to commit a class A felony;
4 (ii) Criminal solicitation of or criminal conspiracy to commit a
5 class A felony;
6 (iii) Manslaughter in the first degree;
7 (iv) Manslaughter in the second degree;
8 (v) Indecent liberties if committed by forcible compulsion;
9 (vi) Kidnapping in the second degree;
10 (vii) Arson in the second degree;
11 (viii) Assault in the second degree;
12 (ix) Assault of a child in the second degree;
13 (x) Extortion in the first degree;
14 (xi) Robbery in the second degree;
15 (xii) Drive-by shooting;
16 (xiii) Vehicular assault, when caused by the operation or
17 driving of a vehicle by a person while under the influence of
18 intoxicating liquor or any drug or by the operation or driving of a
19 vehicle in a reckless manner; and
20 (xiv) Vehicular homicide, when proximately caused by the driving
21 of any vehicle by any person while under the influence of
22 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
23 the operation of any vehicle in a reckless manner;
24 (b) Any conviction for a felony offense in effect at any time
25 prior to July 1, 1976, that is comparable to a felony classified as
26 a violent offense in (a) of this subsection; and
27 (c) Any federal or out-of-state conviction for an offense that
28 under the laws of this state would be a felony classified as a
29 violent offense under (a) or (b) of this subsection.
30 (55) "Work crew" means a program of partial confinement
31 consisting of civic improvement tasks for the benefit of the
32 community that complies with RCW 9.94A.725.
33 (56) "Work ethic camp" means an alternative incarceration
34 program as provided in RCW 9.94A.690 designed to reduce recidivism

1 and lower the cost of corrections by requiring offenders to complete
2 a comprehensive array of real-world job and vocational experiences,
3 character-building work ethics training, life management skills
4 development, substance abuse rehabilitation, counseling, literacy
5 training, and basic adult education.

6 (57) "Work release" means a program of partial confinement
7 available to offenders who are employed or engaged as a student in a
8 regular course of study at school.

9
10 **Sec. 13.** RCW 28A.300.147 and 2011 c 338 s 6 are each amended to
11 read as follows:

12 The superintendent of public instruction shall publish on its
13 web site, with a link to the safety center web page((τ)):

14 (1) A revised and updated sample policy for schools to follow
15 regarding students required to register as sex or kidnaping
16 offenders; and

17 (2) Educational materials developed pursuant to RCW 28A.300.145.
18

19 **Sec. 14.** RCW 72.09.345 and 2011 c 338 s 5 are each amended to
20 read as follows:

21 (1) In addition to any other information required to be released
22 under this chapter, the department is authorized, pursuant to RCW
23 4.24.550, to release relevant information that is necessary to
24 protect the public concerning offenders convicted of sex offenses.

25 (2) In order for ((public)) law enforcement agencies to have the
26 information necessary to notify the public as authorized in RCW
27 4.24.550, the secretary shall establish and administer an end-of-
28 sentence review committee for the purposes of assigning risk levels,
29 reviewing available release plans, and making appropriate referrals
30 for sex offenders.

31 (3) The committee shall assess, on a case-by-case basis, the
32 public risk posed by:

33
34

1 (a) Offenders preparing for release from confinement for a sex
2 offense or sexually violent offense committed on or after July 1,
3 1984;

4 (b) Sex offenders accepted from another state under a reciprocal
5 agreement under the interstate corrections compact authorized in
6 chapter 72.74 RCW;

7 (c) Juveniles preparing for release from confinement for a sex
8 offense and releasing from the department of social and health
9 services juvenile rehabilitation administration;

10 (d) Juveniles, following disposition, under the jurisdiction of
11 a county juvenile court for a registerable sex offense; and

12 (e) Juveniles found to have committed a sex offense and accepted
13 from another state under a reciprocal agreement under the interstate
14 compact for juveniles authorized in chapter 13.24 RCW.

15 (4) Notwithstanding any other provision of law, the committee
16 shall have access to all relevant records and information in the
17 possession of public agencies relating to the offenders under
18 review, including police reports; prosecutors' statements of
19 probable cause; presentence investigations and reports; complete
20 judgments and sentences; current classification referrals; criminal
21 history summaries; violation and disciplinary reports; all
22 psychological evaluations and psychiatric hospital reports; sex
23 offender treatment program reports; and juvenile records. Records
24 and information obtained under this subsection shall not be
25 disclosed outside the committee unless otherwise authorized by law.

26 (5) The committee shall review each sex offender under its
27 authority before the offender's release from confinement or start of
28 the offender's term of community custody in order to: (a) Classify
29 the offender into a risk level for the purposes of public
30 notification under RCW 4.24.550; (b) where available, review the
31 offender's proposed release plan in accordance with the requirements
32 of RCW 72.09.340; and (c) make appropriate referrals.

33 (6) The committee shall classify as risk level I those sex
34 offenders whose risk assessments indicate ((a)) they are at a low

1 risk (~~(of reoffense)~~) to sexually reoffend within the community at
2 large. The committee shall classify as risk level II those offenders
3 whose risk assessments indicate (~~(a)~~) they are at a moderate risk
4 (~~(of reoffense)~~) to sexually reoffend within the community at large.
5 The committee shall classify as risk level III those offenders whose
6 risk assessments indicate (~~(a)~~) they are at a high risk (~~(of~~
7 ~~reoffense)~~) to sexually reoffend within the community at large.

8 (7) The committee shall issue to appropriate law enforcement
9 agencies, for their use in making public notifications under RCW
10 4.24.550, narrative notices regarding the pending release of sex
11 offenders from the department's facilities. The narrative notices
12 shall, at a minimum, describe the identity and criminal history
13 behavior of the offender and shall include the department's risk
14 level classification for the offender. For sex offenders classified
15 as either risk level II or III, the narrative notices shall also
16 include the reasons underlying the classification.

17
18 NEW SECTION. **Sec. 15.** The attorney general shall evaluate the
19 availability of data to determine the comparability of sex and
20 kidnapping offenses among the states, federal government, and other
21 jurisdictions as needed to facilitate the implementation of RCW
22 9A.44.128. The attorney general shall recommend whether the creation
23 of such a database is advisable. The attorney general shall report
24 his or her findings to the appropriate policy committees of the
25 legislature by December 1, 2015.

26
27 NEW SECTION. **Sec. 16.** (1) The sex offender policy board must
28 review and make findings and recommendations regarding the
29 following:

30 (a) Disclosure to the public of information compiled and
31 submitted for the purposes of sex offender and kidnapping offender
32 registries that is currently held by public agencies, including the
33 relationship between chapter 42.56 RCW and RCW 4.24.550;

34

1 (b) Any other best practices adopted by or under consideration
2 in other states regarding public disclosure of information compiled
3 and submitted for the purposes of sex offender and kidnapping
4 offender registries;

5 (c) Ability of registered sex offenders and kidnapping offenders
6 to petition for review of their assigned risk level classification
7 and whether such a review process should be conducted according to a
8 uniform statewide standard; and

9 (d) The guidelines established under RCW 4.24.5501 addressing
10 sex offender community notification, including whether and how
11 public access to the guidelines can be improved.

12 (2) The sex offender policy board must report its findings and
13 recommendations pursuant to this section to the governor and to the
14 appropriate committees of the legislature on or before December 1,
15 2015."

16

17 Correct the title.

EFFECT: Retains the original provisions of the bill but makes
the following changes:

- Removes provisions which would make sex offender and kidnapping offender information exempt from public disclosure under the Public Records Act.
- Requires the Washington Association of Sheriffs and Police Chiefs (WASPC), upon receipt of a public records request for sex and kidnapping offender information, to refer the requestor, in writing, to the appropriate agency or agencies for submission of the request. Provides that WASPC has no further duty to respond to such public records requests.
- Requires a person who is required to register as a sex or kidnapping offender who has notified the county sheriff of plans to travel outside the United States to notify the sheriff if the plans to travel are cancelled or postponed no later than three days after the cancellation or postponement, or on the scheduled departure date, whichever is earlier, instead of three days after the departure date provided in the notification.
- Allows offenders who travel outside the United States due to a work or family emergency, or who travel routinely outside of the United States for work purposes to give notice of travel at least 24 hours in advance of travel instead of at least 21 days, as is required for all other registered offenders.

- Clarifies that a person who is required to register as a sex or kidnapping offender who moves to a new county notify the sheriff of the new county within three business days of moving.
- Removes the provision in the bill that limits the Department of Corrections' authorization to disclose sex and kidnapping offender information to law enforcement agencies only.
- Requires the Sex Offender Policy Board to review and make findings and recommendations regarding: 1) public disclosure of sex and kidnapping offender information and the relationship between current laws on public disclosure; 2) best practices from other states regarding public disclosure of sex and kidnapping offender information; 3) ability of registered sex and kidnapping offenders to have their risk level classification reviewed and whether there should be a uniform statewide policy for review; and 4) guidelines established by a sex offender policy workgroup addressing community notification and how public access to the guidelines can be improved.

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